



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE K. RAVICHANDRABAABU

W.P (MD) No. 9238 of 2015

P. Karuppiah

.. Petitioner

Vs.

1. The Secretary to Government

Public (Political Pension) Department,

Secretariat,

Chennai - 600 009.

2. The District Collector,

Madurai District.

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 1st respondent vide letter No. 67226/A.O.4/2007-3 dated 10.03.2008 and quash the same as illegal and consequently, direct the respondents to issue freedom fighter pension to the petitioner at the earliest.

For Petitioner : Mr. K. P. Narayanakumar

For Respondents : Mr. A. Muthukaruppan

Additional Government Pleader

O R D E R

The petitioner is 96 years old. He has knocked the door of this Court at this age, as the respondents refused to consider his request for grant of freedom fighter pension on the reason that the petitioner has not submitted jail certificate in support of his jail suffering during the freedom struggle movement.

2. The case of the petitioner is that he participated in the freedom struggle, more particularly in the Quit India Movement and was arrested and thereafter, convicted to undergo 6 months Rigorous Imprisonment. Thus, the petitioner was confined from 15.04.1943 to 24.09.1943.

3. In support of such claim, the petitioner has obtained two certificates from the co-prisoners, namely, A. M. Laxmanan and A. C. Periyasamy. Both those co-prisoners are recipients of freedom fighter pension and they have specifically stated in the certificates that the petitioner was imprisoned during the above-said period in pursuant to the freedom struggle. Apart from producing those two certificates from the co-prisoners, the



petitioner has also filed a non-availability certificate issued by the Chief Superintendent, Central Prison, Bellary, dated 04.07.2007, stating that the jail records for the period from 15.04.1943 to 24.09.1943 are completely torn out and therefore, he is unable to issue the jail certificate to the petitioner for the above-said period. When these overwhelming documents are filed by the petitioner in support of his claim seeking for freedom fighter pension, there is absolutely no justification on the part of the first respondent in rejecting the same, merely because the petitioner has not produced the jail certificate. In the absence of a jail certificate, the co-prisoner's certificate will definitely stand to speak the truth and hence, the same has to be considered and accepted as a evidence of jail suffering so long as the genuineness of such certificate is not in dispute. In this case, the respondents have not doubted about the genuineness of the co prisoners' certificates, nor they dispute the non-availability certificate issued by the jail authority. Thus, it is evident that the impugned order is an out come of total non-application of mind. Therefore, I find every justification in allowing the writ petition.

4. Accordingly, the writ petition is allowed and the impugned order is set aside and the respondents are directed to issue the freedom fighter pension to the petitioner from the date of his application, within a period of three weeks from the date of receipt of a copy of this order. The respondents are directed to serve such order at the doorstep of the petitioner, apart from communicating the same through other mode of service. No costs.

Sd/-

Assistant Registrar (CS I)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government
Public (Political Pension) Department,
Secretariat,
Chennai - 600 009.

2. The District Collector,
Madurai District.

+1cc to Mr. K. P. Narayanakumar, Advocate in SR No. 3677

+1cc to the Spl. Govt. Pleader in SR No. 3769