

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 13.11.2017****CORAM:****THE HONOURABLE MR.JUSTICE R.MAHADEVAN****W.P (MD) No.11993 of 2017****and****W.M.P. (MD) No.9227 of 2017**

N.Krishnasamy

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Public (Political Pension) Department,
Secretariat,
Chennai - 600 009.

2. The District Collector,
Dindigul District,
Dindigul.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent's impugned proceedings in Na.Ka.No.9471/2013/R3 dated 23.05.2016 and quash the same as illegal and consequently direct the respondents to sanction the Freedom Fighter Pension to the petitioner from the date of his application.

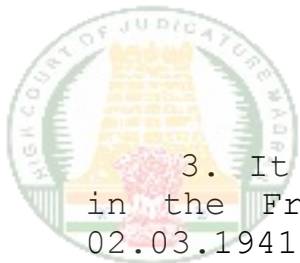
For Petitioner : Mr.V.Thirumal

For Respondents : Mr.J.Gunaseelan Muthiah,
Government Advocate.

ORDER

This petition has been filed, seeking to quash the impugned proceedings of the second respondent, dated 23.05.2016 made in Na.Ka.No.9471/2013/R3, by which, the request of the petitioner for grant of Freedom Fighter Pension stood rejected on some technical grounds.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents. By consent, the writ petition itself is taken up for final disposal.



3. It is the case of the petitioner that he has participated in the Freedom struggle and was imprisoned from 01.01.1941 to 02.03.1941 and 15.04.1941 to 01.07.1941 at Central Prison, Coimbatore. The petitioner applied for Freedom Fighter Pension to the respondents along with necessary certificates duly issued by the co-prisoners, namely, I.Mayandi Bharathi, A.C.Periyasamy and A.M.Lakshmanan. But the claim of the petitioner was rejected by the respondents on 23.05.2016. Aggrieved by the same the petitioner is before this Court.

4. The learned Counsel for the petitioner has relied on the Judgment reported **in 2017(1) TLNJ 646 (Civil) in Karuppiyah vs. 1. The Secretary to Government Public (Political Pension) Department, Secretariat, Chennai and another** [WP(MD)No.9238 of 2015, decided on 23.01.2017], wherein, it is observed in paragraph No.3, as follows:

"3. 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 completed 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."

5. It is unfortunate that the claim of a freedom fighter, despite the State recognized him, has been kept pending for years together without honouring the valuable services rendered by him during freedom struggle.

6. It is worthwhile to refer to the judgments of this Court rendered in similar circumstances, which are as follows:

i) **A.Pitchai vs. The District Collector and others** [WP (MD)NO.7758 of 2015, decided on 03.06.2015]:

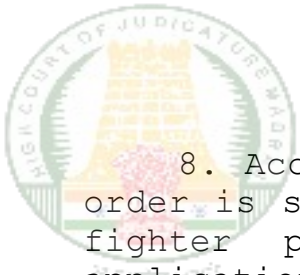


"6.2. let us always cherish our memory that the freedom of expression, which we feel today, the freedom of thought, which we think today, the freedom of Constitutional Right, which we enjoy today, the freedom of impugned order, which the authorities pass today and the freedom of privilege of hearing this case today, are all nothing but the great sacrifice made by Our Forefathers of Our Country. In those days, the Freedom Fighters chased the Britishers to liberate this Country from the British. Now, they are forced to chase the Government to get Freedom Fighters Pension through litigations. As a matter of fact, the Government itself has to open a separate cell for the Freedom Fighters and get resolved their grievances then and there so as to pass on the freedom movement for ever to the younger generation of Our Country."

ii) ***Rajayyan Robin v. The State of Tamil Nadu and others***
[WP (MD) No.4936 of 2011, decided on 30.06.2014]:

"8. It has to be kept in mind that the freedom fighters' pension scheme was introduced with an ultimate object of providing grant of pension to the living freedom fighters and their families and to the families of martyrs, who had participated in the freedom struggle without any expectation of grant of any scheme at that relevant point of time. No doubt, the object of the scheme is only to honour and also to mitigate the sufferings of the persons who had sacrificed their all for the sake of our country and hence, a liberal and never a technical approach should be followed at the time of considering the case of a person seeking pension under such scheme. Once, it is evident on the basis of the materials available on record that the claimant of pension had suffered incarceration for the cause of the country, a presumption has to be drawn in his favour, until the same is rebutted by a cogent, reasonable and reliable material evidence."

7. Hence, it is not the case of the respondents that the co-prisoners' certificates produced by the petitioner is a bogus one. Moreover, it is apparent on the face of the record that the impugned order has been passed without proper application of mind and therefore, the same is liable to be set aside.



8. Accordingly, the writ petition is allowed and the impugned order is set aside. The respondents are directed to grant 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. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary,
Government of Tamil Nadu,
Public (Political Pension) Department,
Secretariat,
Chennai - 600 009.

2. The District Collector,
Dindigul District,
Dindigul.

+1cc to Mr.V.Thirumal, Advocate Sr.No.87230

+1cc to Spl.Government Pleader Sr.No.87019

RM

VB/SKN/RSK/SAR4/22/11/2017/4P/5C

W.P (MD) No.11993 of 2017
13.11.2017