



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P (MD) No.1351 of 2017

WEB COPY

Malarmani

... Petitioner

Vs.

1.The Secretary to Government of India,
Ministry of Home Affairs/Grih Manthralaya,
1st Floor, Loak Nayak Bhavan
Khan Market, New Delhi - 3.

2.The Additional Secretary to Government,
Public (Political Pension 1) Department,
St. George Fort, Chennai.

3.The District Collector
Thanjavur District.

4.The Thasildar
Pattukottai Taluk,
Thanjavur District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to grant freedom fighter pension under SWATANTRA SAINIK SAMMAN PENSION SCHEME by considering her application dated 20.01.2016 forthwith.

For Petitioner : Mr.K.P.Narayanakumar

For Respondents : Mr.N.Shanmugaselvam - for R1

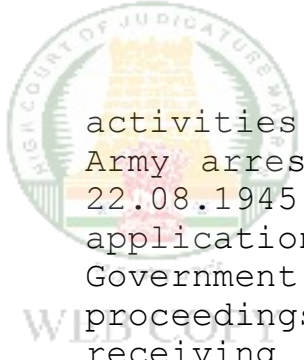
: Mr.J.Gunaseelan Muthiah,- for R2 to R4
Government Advocate.

O R D E R

This petition has been filed, seeking a Writ of Mandamus directing the respondents to grant freedom fighter pension under SWATANTRA SAINIK SAMMAN PENSION SCHEME by considering her application dated 20.01.2016 forthwith.

2. Heard the learned counsel for the petitioner, the learned counsel for the first respondent and the learned Government Advocate appearing for the respondents 2 to 4. By consent, the writ petition itself is taken up for final disposal.

<https://hcservices.ecourts.gov.in/hcservices/> is the case of the petitioner that her husband, namely, Late Manickam was served as a Civilian Sepoy in Indian National Army and has worked in various freedom struggle



activities to quit the English people. Thereafter, the British Army arrested her husband and imprisoned him from 21.03.1944 to 22.08.1945 at Bidadari. The petitioner's husband had submitted an application, in this regard to the State Government and the State Government granted Freedom Fighter's Pension to him, vide proceedings F.F.D.O.6392/70 dated 10.10.1970 and he was regularly receiving the pension till his death ie.31.01.2010. During his life time, he took several efforts to obtain Central Government Pension, but his claim was not considered. After his demise, being his wife, she submitted an application dated 20.01.2016 to the second respondent for grant of Pension, in which, the second respondent demanded some documents, vide letter dated 01.02.2016. Subsequently, the petitioner submitted all the required documents on 22.08.2016 itself, since, the said application is pending consideration till date, the petitioner left with no other opportunity, has approached this Court with the present writ petition.

4. Whereas, the learned Counsel appearing for the respondents, has filed a counter affidavit and on instructions, submitted that the petitioner has not submitted the application in proper format and has not enclosed necessary documents, before the authorities concerned. He fairly submitted that in the event of the petitioner submitting the same, the authorities shall pass appropriate orders, in a time bound manner.

5. The learned Counsel for the petitioner submitted that in the earlier communication, only 7 documents were required by the authorities, whereas, in the counter affidavit, three more documents are additionally insisted by them and hence, the petitioner seeks time to submit the same.

6. The learned Counsel for the petitioner has also relied on the Judgment reported in 2017(1) TLNJ 646 (Civil) in *Karuppiiah 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."

7. 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 it is rebutted by a cogent, reasonable and reliable material evidence."



8. 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.

9. Considering the facts and circumstances of the case, this Court directs the petitioner to submit a copy of proper application form, along with necessary documents with the copy of this order before the respondents within a period of two weeks and on such submission, the respondents are directed to pass appropriate orders thereon, on merits and in accordance with law and also in the light of the order passed in the case of *A.Pitchai vs. The District Collector and others* [WP(MD)No.7758 of 2015, decided on 03.06.2015], after affording an opportunity of hearing to the petitioner, within a period of four weeks thereafter.

10. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(Crl side)

/True copy/

Sub Assistant Registrar

To

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3.The District Collector
Thanjavur District.

4.The Thasildar
Pattukottai Taluk,
Thanjavur District.

+1cc to M/S.Special Government Pleader,SR. 94797

+1cc to Mr.N.SHANMUGA SELVAM,Advocate,SR. 94681

+1cc to Mr.K.P.NARAYANA KUMAR,Advocate,SR.94661

W.P (MD) No.1351 of 2017
21.12.2017

RM

KK/SV MMS/SAR 2/10.01.2018/ 4P- 8C/