



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.6310 of 2011

1.M.Ganapathi (died)

2.Valli

... Petitioners

(The second petitioner is substituted for the deceased sole petitioner vide order of this Court, dated 26.11.2015 made in M.P(MD) No.1 of 2015.)

Vs.

1.The Government of India

Rep. by Secretary,
Ministry of Home Affairs,
(Freedom Fighters Division),
Lok Nayak Bhavan, New Delhi.

2.The Secretary to Government,
Department of Public (General P)
Freedom Fighters Pension,
St. George Fort,
Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondent to grant the Swatantrata Sainik Samman pension to the petitioner w.e.f. 30.07.1972.

For Petitioners

For R.1

For R.2

... Mr.K.Samidurai

... Mr.L.Victoria Gowri

... Mr.T.S.Mohamed Mohideen
Additional Government Pleader

ORDER

This writ petition has been filed, seeking to direct the first respondent to grant the Swatantrata Sainik Samman pension to the petitioner w.e.f. 30.07.1972.

2. It is the case of the petitioners that the first petitioner was recruited by the Indian National Army in the year 1943 and has worked in various Army training camps. Finally, the first petitioner was attached with No.1 Bahadur Group at Kanbe, Rangoon, Burma and was sent to war front. Thereafter, the British Army arrested the first petitioner and imprisoned him from April 1945 to January 1946. The said period of imprisonment has been
service rendered by him as one of the Freedom Fighters and the petitioner had also been honoured vide grant of pension under the Freedom Fighters Scheme with effect from 24.04.1969. The first petitioner



had submitted an application, in this regard to the first respondent on 30.07.1972 and the same has been acknowledged by the first respondent vide communication dated 10.11.1972. Since, the said application is pending consideration till date, the first petitioner left with no other opportunity, has approached this Court with the present writ petition.

3. During the pendency of this writ petition, the first petitioner died and the second petitioner brought on record vide order dated 26.11.2015 in M.P(MD) No.1 of 2015.

4. It is unfortunate that the claim of a freedom fighter, despite the State recognised him, kept pending decades without honouring the valuable services rendered by him during freedom struggle. It is hardening that the said soul passed away without seeing the light of his prayer.

5. Under similar circumstances, this Court, in A.Pitchai v. The District Collector and others [WP(MD)No.7758 of 2015, decided on 03.06.2015], observed in paragraph No.6.2, as follows:

"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."

6. Further, this Court, in V.Rajayyan Robin v. The State of Tamil Nadu and others [WP(MD)No.4936 of 2011, decided on 30.06.2014], observed in paragraph No.8, as follows:

"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 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. Considering the facts and circumstances of the case, this Court, without going into the merits of the matter, directs the second petitioner to submit an application for "SWATANTRATA SAINIK SAMMAN PENSION" to the respondents within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to pass appropriate orders thereon within a period of four weeks thereafter.

8. In fine, this writ petition is disposed of as above. No costs.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Secretary,
Government of India
Ministry of Home Affairs,
(Freedom Fighters Division),
Lok Nayak Bhavan, New Delhi.
- 2.The Secretary to Government,
Department of Public (General P)
Freedom Fighters Pension,
St. George Fort, Chennai.

+1cc to M/S.K.Samidurai, Advocate SR.No. 83229
+1cc to M/S.L.Victoria Gowri, Advocate SR.No. 83215
+1cc to Special Government Pleader, SR.No. 83292, 83417

W.P(MD)No.6310 of 2011
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