



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P(MD) No.19670 of 2013

and

M.P(MD) No.1 of 2013

K.Balakrishnan

... Petitioner

Vs.

1.The Government of India,
Rep. by Secretary,
Ministry of Home affairs
(Freedom Fighters Division),
Lok Nayak Bhavan,
New Delhi.

2.The Government of Tamil Nadu,
Rep. by its Secretary,
Public (General) Department,
Secretariat, Chennai.

3.The District Collector,
Madurai District,
Madurai.

... Respondents

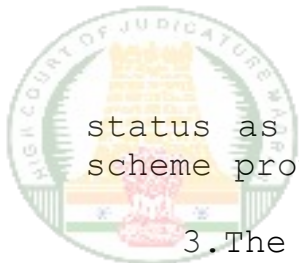
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 1st respondent bearing No.140/Gen/TN/2012-FF(SZ) dated 11.07.2013 and quash the same and consequently to direct the 1st respondent to grant the Swatantrata Sainik Samman pension to the petitioner from the year 2009.

For Petitioner	: Mr.K.Samidurai
For R 1	: Mr.C.Nandagopal
For R 2 and 3	: Mr.S.Kumar
	Government Advocate

O R D E R

This Writ Petition has been filed, challenging the rejection of the petitioner's request for grant of Freedom Fighters Pension under Swatantrata Sainik Samman (SSS) pension scheme, 1980.

<https://hcservices.courtservice.in/hcservices/> 2. The petitioner claims to have participated in the freedom struggle and was imprisoned from 23.12.1943 to 23.12.1944 at Vellore Central Jail. The State Government has recognized his



status as a freedom fighter and also sanctioned pension under the scheme provided by the State Government.

3.The petitioner, as evidence of his imprisonment, has produced the Co-prisoner certificate from Sree I.Mayandi Bharathi. The said request of the petitioner has been rejected on the ground that, the certifier namely Sree I.Mayandi Bharathi has not given details of the case in which the petitioner was charge sheeted and arrest warrant was issued.

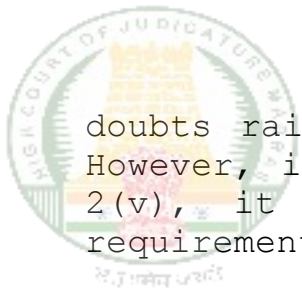
4.The authority has also observed that Non-Traceable Certificate issued by the Superintendent, Central Prison, Vellore, is not in the proper format, and the same has to be issued by the State Government in the prescribed format. It is also stated that the Government of Tamil Nadu has not furnished the verification cum entitlement to pension report and in the absence of the specific recommendation by the State Government, the request for grant of Pension under Swatantrata Sainik Samman (SSS) Scheme cannot be considered.

5.As regards the doubts expressed by the authority regarding validity of the Co-prisoner certificate issued by Sree I.Mayandi Bharathi, this Court and the Hon'ble Supreme Court have in several cases accepted the Co-prisoner Certificate issued by Sree I.Mayandi Bharathi, who is a known freedom fighter and hence the reason in paragraph 2(ii) of the impugned letter dated 11.07.2013 cannot be accepted.

6.As regards the requirements in paragraph 2(iv) and 2(v) of the impugned letter dated 11.07.2013 namely, the submission of Non-Traceable Certificate in a proper form with specific recommendation of the State Government, it is the State Government who has to comply with those requirements.

7.As rightly observed by the Hon'ble Justice V.Ramasubramanian, in an unreported judgment dated 12.12.2011 made in W.P.No.5164 of 2011, those freedom fighters, who have participated in the freedom struggle cannot be expected to produce records like First Information Report or warrant of arrest etc,. Once the creditability of the persons who gave the Co-prisoner certificate is unquestionable, the respondents will have to adopt a pragmatic and liberal approach. Demand for production of copies of the First Information Report and arrest warrants in such cases, in my opinion is wholly unjust.

8.The Hon'ble Apex Court in the State of Tamil Nadu Vs. A.Manickam Pillai {2010 (2) SCC 669} has accepted the certificate issued by Sree I.Mayandi Bharathi. In the Writ Petition decided by the Hon'ble Justice V.Ramasubramanian, in W.P.No.5164 of 2011, the Co-prisoner Certificate issued by Sree I. Mayandi Bharathi was accepted. Therefore, I don't find any justification for the



doubts raised in paragraph 2(i) and 2(ii) of the impugned order. However, in respect of requirements raised in paragraph 2(iv) and 2(v), it is for the State Government to comply with those requirements.

9. Therefore, while setting aside the impugned order, I direct the State Government to comply with the requirements stated in paragraph 2(iv) and 2(v) of the impugned order and on such compliance, the Central Government is directed to re-consider the application of the petitioner.

10. In the light of the observations made above and in the light in the observations made in the judgments of this Court in W.P.No.5164 of 2011 dated 12.12.2011, the petitioner shall forward a copy of the judgment of the Hon'ble Justice V.Ramasubramanian in W.P.No 5164 of 2011 as well as the judgment of the Hon'ble Supreme Court in A. Manickam Pillai {2010 (2) SCC 669} along with his application to the authority concerned. The State Government shall comply with the requirements in paragraph 2(iv) and 2(v) within a period of four weeks from the date of receipt of the copy of this order and upon receiving the recommendations from the State Government, the Central Government shall pass appropriate orders within a period of four weeks thereafter.

11. Therefore, the Writ Petition disposed of. Consequently, the connected Miscellaneous Petition is also dismissed. No costs.

Sd/-

Assistant Registrar(Protocol)

/True Copy/

Sub Assistant Registrar.

To

1. The Secretary to Government of India,
Ministry of Home affairs (Freedom Fighters Division),
Lok Nayak Bhavan, New Delhi.

2. The Secretary to Government of Tamil Nadu,
Public (General) Department, Secretariat, Chennai.

3. The District Collector, Madurai District, Madurai.

+1CC to the Special Government Pleader SR.No. 52236

+1CC to M/S.K.Samidurai, Advocate, SR.No. 52463

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