

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on
13.06.2018

Delivered on
21.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1027 of 2018
and CMP No.8612 of 2018

The Government of India,
Rep. by its Secretary,
Ministry of Home Affairs,
North Block, Cabinet Secretariat,
Raisina Hill, New Delhi 110 001 ..Appellant/1st Respondent

versus

1. E.V.Narayanasamy ..1st Respondent/Petitioner
2. The Govt. of Tamil Nadu,
Rep. By its Secretary.
Public Department,
Secretariat, Fort St. George,
Chennai 600 009. ..2nd Respondent/2nd Respondent
3. The District Collector,
Vellore Collectorate,
Vellore 632 009.3rd Respondent/3rd Respondent

Appeal filed against the order passed by this Court dated
08.11.2017 passed in W.P.No.28515 of 2017.

W.P.No.28515 of 2017:

Writ Petition filed under Article 226 of the constitution of
India praying for the issuance of a Writ of Mandamus to direct
the 1st Respondent to grant the Swatantrata Sainik Samman Pension
(Central Freedom Fighters Pension) to the petitioner within a
time frame.

For appellant : Mr.G.Karthikeyan
Assistant Solicitor General of India

For Respondents : Mr.V.Anandhamoorthy,
Additional Govt. Pleader for R2 & R3
No appearance for R1

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The challenge in this Intra Court Appeal is to the order of the learned Single Judge made in WP No.28515 of 2017, in and by which, the 1st respondent was directed to consider the claim of the petitioner for grant of pension under Swatantrata Sainik Samman Pension Scheme (Central Freedom Fighters Pension Scheme) and pass necessary orders within a period of six weeks from the date of receipt of a copy of this order.

2. The first respondent claiming to be a Freedom Fighter and drawing pension from the State Government under the Tamil Nadu Freedom Fighters Pension Scheme, had filed the Writ Petition seeking a direction to the respondents to grant Swatantrata Sainik Samman Pension Scheme. The said Writ Petition came to be allowed at the admission stage, taking note of the recommendations made by the 3rd respondent to the 2nd respondent on 17.08.2017. Now in this Appeal, it is brought to our notice that the petitioner had already filed Writ Petition in WP No.23831 of 2010, challenging the order of the 1st respondent viz. the Government of India represented by its Secretary, Ministry of Home Affairs, Freedom Fighters Pension dated 07.04.2010 rejecting his request for grant of Central Government Pension, under the Swatantrata Sainik Samman Pension Scheme.

3. The said Writ Petition came to be dismissed by this Court, by an order dated 25.04.2011, the said order of the dismissal was challenged by the 1st respondent herein, in Writ Appeal No.1518 of 2012. The said Writ Appeal came to be dismissed on merits by the Division Bench of this Court to which one of us (Justice Mr.Justice K.K.Sasidharan) was a party. The present Writ Petition in WP No.28515 of 2017 came to be filed sometime in October 2017 seeking a Mandamus directing the 1st respondent, viz. the Government of India, represented by its Secretary, Ministry of Home Affairs, to grant Swatantrata Sainik Samman Pension Scheme to the respondent.

4. The claim of the respondent to Central Government Pension was rejected as early as in 2010 and the challenge to the said rejection before this court had also failed. While so, suppressing the earlier proceedings, the above Writ Petition in WP No.28515 of 2017 had been filed by the first respondent herein and the said Writ Petition also came to be allowed by the order impugned in this Appeal.

5. We have heard Mr.G.Karthikeyan, learned Assistant Solicitor General of India appearing for the appellant and Mr.V.Ananathamurthi, learned Additional Government Pleader for the respondents 2 and 3.

6. In view of the facts stated above, we have no hesitation to conclude that the second Writ Petition is an abuse of process of Court and the same ought not to have been entertained at all. Having failed in his attempt to get Central Government Pension for Freedom Fighters earlier, the respondent had approached this Court once again by suppressing facts.

7. In view of the above, this Intra Court Appeal deserves to be allowed and the same is allowed, setting aside the order of the learned Single Judge dated 8.11.2017. The Writ Petition in WP No.28515 of 2017 will stand dismissed. Though in normal circumstances, we would have imposed costs, we refrain from doing so, considering the age of the 1 respondent.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

jv

To

1. The Secretary to Government
Govt. of Tamil Nadu,
Public Department,
Secretariat, Fort St. George,
Chennai 600 009.

2. The District Collector,
Vellore Collectorate,
Vellore 632 009.

+1 CC to Mr.G. Karthikeyan, Advocate sr 39455.
+1 CC to Govt. Pleader sr 39589.

W.A.No.1027 of 2018

SKS (CO)
SP(04/07/2018)