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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.10.2018

PRONOUNCED ON : 12.10.2018

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25807 of 2008

1.R.Muppudathi (Deceased)

2.M.Ayyammal

3.M.Pitchai

4.M.Velusamy

5.M.Ramasamy

6.M.Lakshmi

.. Petitioners

(P2 to P6 are substituted as legal representative of the deceased petitioner vided order dated 03.12.2009 by KCJ in M.P.No.1 of 2009 in W.P.No.25807 of 2008)

VS

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Public (Political Pension) Department,
Fort St.George, Chennai-9.

2.The District Collector,
Virudhunagar District,
Virudhunagar.

3.The Tahsildar,
Sattur Taluk, Sattur,
Virudhunagar District.

.. Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Mandamus to direct the 1st and 2nd respondents herein to sanction the Freedom Fighters' Pension to the petitioner on following the order passed by this Court in W.P.No.5990/2004, dated 11.03.2004.

For petitioner : Mr.P.M.Duraisamy

For respondents : Mr.M.Inbanathan
Additional Government Pleader



O R D E R

The above writ petition has been filed to to direct the first and the second respondents herein to sanction the Freedom Fighters' Pension to the petitioner on following the order passed by this Court in W.P.No.5990/2004, dated 11.03.2004.

2.The petitioner/R.Muppudathi (Deceased) died on 11.07.2009 and therefore, his legal heirs had been impleaded as petitioners vide order dated 03.12.2009 in M.P.No.1 of 2009 in W.P.No.25807 of 2008.

3.The deceased petitioner was aged about 89 years at the time of filing of the writ petition in the year 2008 and subsequently passed away on 11.07.2009. The deceased petitioner claimed that he was a freedom fighter and participated in the freedom movement and was incarcerated as a co-prisoners along with A.Sankaran Pillai and K.Ganapathy Maistry.

4.From 1983 onwards, the deceased petitioner had been attempting to get Freedom Fighters' Pension. The District Selection Committee had recommended the deceased petitioner for pension. However, the Additional Secretary, Public Department rejected the name in 2004. The deceased petitioner thereafter filed W.P.No.5990 of 2004 to direct the first respondent to sanction Freedom Fighters' Pension which relaxed the rule like other case to produce certificate from the Government approved co-prisoners.

5.Under these circumstances, by an order dated 11.03.2004, the Court directed the respondents to dispose of the writ petition for grant of Freedom Fighters' Pension in accordance with the law and in accordance with the guidelines issued by the Government within a period of 12 weeks from the date of receipt of a copy of that order.

6.The deceased petitioner thereafter received communication dated 22.04.2004 from the second respondent asking him to appear for an enquiry to be held on 29.04.2004. However, it is stated that the deceased petitioner could not attend the hearing as he was unable to read the communication after having undergone an eye operation and he had some confusion regarding the actual date of enquiry. The deceased petitioner thereafter went for enquiry on the following day i.e., 30.04.2004. The deceased petitioner thereafter sent a representation dated 14.05.2004 to the second respondent requesting him to reconsider. However, there was no response from the second respondent and under these circumstances, the deceased petitioner filed the present writ petition. After filing the

<https://hcservices.courts.gov.in/hcservices/>, the deceased petitioner passed away on



11.07.2009 at the age of 90 years without getting Freedom Fighters' Pension.

7.The deceased petitioner had filed certificate issued by the co-prisoners namely, A.Sankaran Pillai, Virudhunagar and K.Ganapathy Maistry, Sankupatty. It was submitted that the deceased petitioner was entitled to Freedom Fighters' Pension by relaxing the above Rule. Further the third respondent by their proceedings dated 24.06.1998 had confirmed that the deceased petitioner was incarcerated along with A.Sankaran Pillai and K.Ganapathy Maistry as co-prisoners and they were receiving the Freedom Fighters' Pension and stated that the deceased petitioner was in Kovilpatti prison along with them during "Quit India Movement". Pursuant to the same, the second respondent also recommended the name of the deceased petitioner for Freedom Fighters' Pension vide letter dated 20.07.1998.

8.However, it appears that the Government considered only Balakrishnan and K.M.Ramamurthiraja as approved for issuing co-prisoners certificate. However, the deceased petitioner submitted that both the prisoners were not co-prisoners and therefore pension cannot be denied based on such names.

9.However, by letter dated 02.02.2000, the 2nd respondent indicated that the petitioner had not stayed in prison with Balakrishnan and K.M.Ramamurthiraja, who were freedom fighters. Thereafter, by a letter dated 20.02.2004, the 1st respondent called upon the deceased petitioner for a hearing along with necessary documents.

10.By a letter dated 22.04.2004, the 2nd respondent called the deceased petitioner for an enquiry on 29.04.2004. However, the deceased petitioner could not appear for enquiry on 29.04.2004. Thereafter the deceased petitioner appeared on 30.04.2004 for enquiry, which was rejected. The deceased petitioner has thereafter sent a representation dated 14.05.2004 to consider his case favorably. The co-prisoners certificates dated 12.11.1983 and 30.03.1985 state that the deceased petitioner was the co-prisoner along with them. On 12.07.2003, the norms were also relaxed, it was reported in the news paper that "The State Government has relaxed the age limit and the norm of submission of co-prisoners certificates to benefit these freedom fighters, who have been petitioning it for pension for several years, an official explained."

11.The respondents are having all the records produced by the deceased petitioner earlier. If the co-prisoners A.Sankarn Pillai and K.Ganapathy Maistry were in receipt of Freedom Fighters' Pension and if the certificates given by them are



found to be genuine, I see no reason why pension ought not have been given to the deceased petitioner/R.Muppudathi during his life time particularly in the light of the recommendations dated 02.02.1994 and 20.07.1998 of the 2nd respondent.

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12.In view of the same, I therefore direct respondents to pay arrears of Freedom Fighters' Pension to the legal heirs of the deceased Freedom Fighter or R.Muppudathi from the date he was originally eligible till the date of death of demise i.e., 11.07.2009 together with interest at 7.5% per annum within a period of six weeks from the date of receipt of a copy of this order.

12.The above writ petition is allowed with the above observations. No costs.

Sd/--

Assistant Registrar(CS IX)

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Sub Assistant Registrar

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To:

- 1.The Secretary,
Public (Political Pension) Department,
Fort St.George, Chennai-9.
- 2.The District Collector,
Virudhunagar District,
Virudhunagar.
- 3.The Tahsildar,
Sattur Taluk, Sattur,
Virudhunagar District.

sm:25.10.2018

W.P.No.25807 of 2008