

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.14258 of 2017  
and  
W.M.P.No.15463 of 2017

M.S.Kairunisha

... Petitioner

vs.

1. The Additional Chief Secretary  
to Government of Tamil Nadu,  
Public (Political Pension-III) Department,  
Secretariat,  
St.Fort George,  
Chennai - 600 009.

2. The District Collector,  
Chennai District,  
Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 2<sup>nd</sup> respondent vide his Lr.No.C3/5204/2017(19794/2015) dated 02.05.2017 and quash the same and consequently direct the 2<sup>nd</sup> respondent to recommend the petitioner for the grant of Dependent Freedom Fighter Pension payable by the State Government

payable from the date of application dated 20.02.2015.

For Petitioner : Ms.L.Srileka  
For Respondents : Mr.ERA.Premnath,  
Government Advocate.

**ORDER**

The petitioner is the daughter of a freedom fighter, by name Sowgath Ali, who was the recipient of Freedom Fighter Pension from the State Government. He died on 03.08.2014 leaving behind the petitioner and other children as his legal heirs. The petitioner claims that due to paralysis, she is not in a position to walk and thus, she is physically disabled. Her husband also passed away on 06.08.2000. The petitioner has sought for issuance of State Freedom Fighter Family Pension under the category of differently abled persons and the said request was rejected by passing the impugned order dated 02.05.2017 on the reason that the genuinity of the disability of the petitioner could not be verified due to non-appearance of the petitioner before the Medical Board.

2. Heard both sides.

3. There is no dispute to the fact that the petitioner's father was receiving Freedom Fighter Pension from the State of Tamil Nadu and passed away on 03.08.2014. The petitioner claims to be a physically disabled person

and thus, entitled to the State Freedom Fighter Family Pension under the category of differently abled person, more particularly, under the specific category viz., locomotors disability, based on the order passed by the Government in G.O.Ms.No.748 Public (PP.II) Department dated 11.08.1995. Therefore, it is for the respondents to consider the claim of the petitioner and pass appropriate orders after assessing the disability of the petitioner by the appropriate Medical Board. Though it is stated in the impugned order that the petitioner did not appear on three dates on which such assessment was proposed, this Court is of the view that one more opportunity can be given to the petitioner to appear before the said Board for the purpose of assessing her disability.

4. Accordingly, this writ petition is allowed and the impugned order is set aside by remitting the matter to the respondents with the following directions.

(a) The petitioner shall appear before the Regional Medical Board, Government Kilpauk Medical College & Hospital, Chennai, on 22.01.2018 or any other subsequent date as fixed by the Board for the assessment of her disability.

(b) The said Medical Board will assess the disability of the petitioner and communicate the same to the respondents within a period of seven days from the said assessment.

(c) On receipt of such report from the Medical Board, the respondents shall consider the claim of the petitioner for payment of State Freedom Fighter Family Pension under the category of differently abled persons from the date of her application and pass appropriate orders within a period of four weeks from the date of receipt of such report.

No costs. Consequently, connected miscellaneous petition is closed.

02.01.2018

Speaking/Non-speaking order

Index : Yes / No

vsi

**Note:** Issue order copy on 04.01.2018

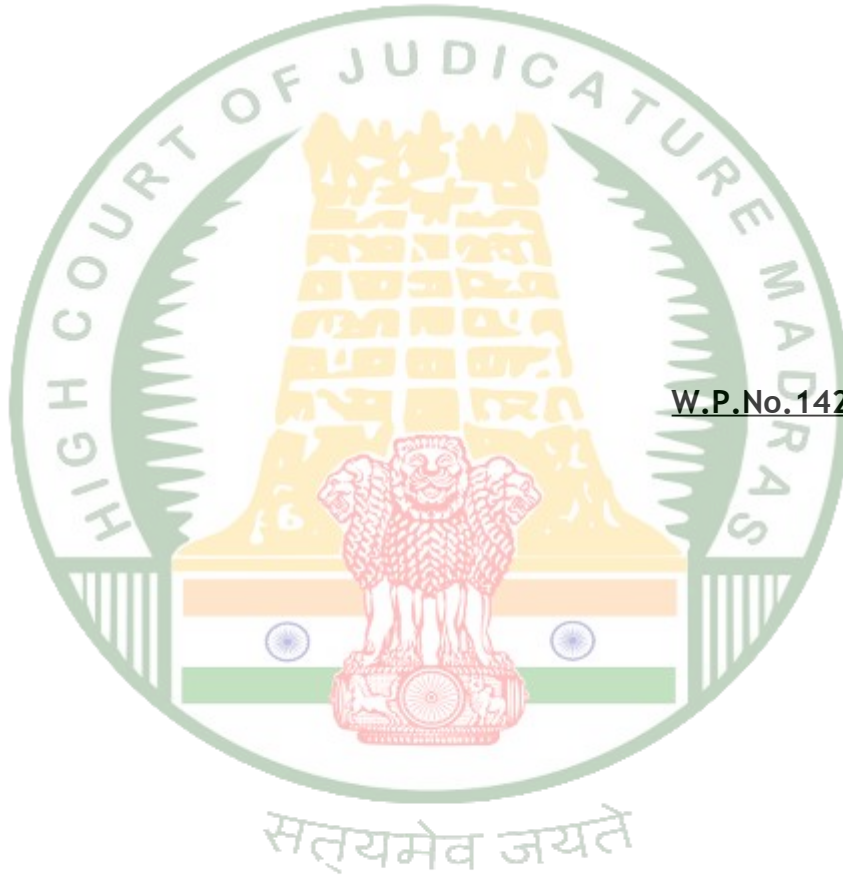
To

1. The Additional Chief Secretary  
to Government of Tamil Nadu,  
Public (Political Pension-III) Department,  
Secretariat,  
St.Fort George,  
Chennai - 600 009.

2. The District Collector,  
Chennai District,  
Chennai.

K.RAVICHANDRABAABU,J.

vsi



W.P.No.14258 of 2017

WEB COPY

02.01.2018