



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A. (MD) No.184 of 2018

and

C.M.P. (MD) No.994 of 2018

1. The State of Tamil Nadu
rep.by its Joint Secretary
Public (Political Pension) Department
Fort St.George
Chennai-600 009

2. The District Collector
Collectorate Office
Dindigul District
Dindigul

... Appellants / Respondents

-vs-

Govindarajulu

... Respondent / Petitioner

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 21.11.2017, made in W.P.(MD) No.10862 of 2017.

Prayer in WP(MD). 10862/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the Respondents to provide freedom fighter pension to the petitioner.

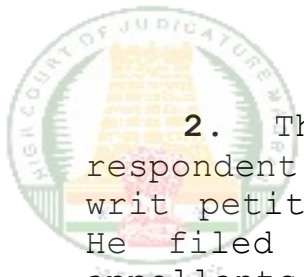
For Appellants : Mr.V.R.Shanmuganathan
Special Government Pleader

For Respondent : Mr.R.Venkatesan

J U D G M E N T

[Judgment of the Court by K.RAVICHANDRABAABU, J.]

<https://hcservices.ecourts.gov.in/hcservices/>
This writ appeal is directed against the order, dated 21.11.2017, made in W.P.(MD) No.10862 of 2017.



2. The appellants herein are the respondents and the respondent herein is the petitioner before the Writ Court. The writ petitioner, a freedom fighter, is now aged about 92 years. He filed the above writ petition for mandamus directing the appellants / respondents to provide freedom fighter pension. It is claimed by the writ petitioner that he had participated in the freedom struggle movements and was imprisoned at Palayamkottai Jail from 03.11.1942 to 05.09.1943. He applied for freedom fighter pension along with co-prisoners certificates. As the application was not considered by the appellants / respondents, he approached this Court by filing the writ petition as stated supra.

3. The learned Single Judge, after hearing both sides and following the decisions rendered by this Court in **Karuppiyah vs. The Secretary to Government, Public (Political Pension) Department, Secretariat, Chennai and another**, reported in 2017 (1) TLNJ 646 (Civil), order dated 03.06.2015 made in W.P. (MD) No.7758 of 2015 and order dated 30.06.2014, made in W.P. (MD) No.4936 of 2011, which were passed in similar line, disposed the writ petition by directing the appellants / respondents to grant freedom fighter pension to the writ petitioner from the date of his original application. Challenging the said order, the present writ appeal has been filed by the respondents.

4. When the writ appeal came up for hearing on 13.02.2018, the Division Bench, after hearing both sides, found that the only ground urged by the learned Government Advocate appearing for the appellants was that the co-prisoners certificates and the original letter issued by Mr.O.V.Alagesan, President of Tamil Nadu Congress Committee, were not produced before the District Committee and produced only before this Court directly. Thus, considering such objection, the Division Bench, in order to avoid the said technical defence and to meet the ends of justice, directed the production of those original documents before the District Collector, Dindigul District on 27.02.2018 and with a direction to place the same before the concerned District Committee, which in turn shall look into the same and pass appropriate orders on merits and in accordance with law on or before 16.03.2018. The said order, dated 13.02.2018, reads as follows:

"The respondent/writ petitioner was directed to be confer the beneficiary, the benefit of freedom fighters pension, vide impugned order, passed in the writ petition and challenging the legality of the same, the official respondents, came forward to file this writ petition.

2.Mr.M.Murugan, learned Government Advocate, appearing for the appellants, would submit that admittedly the documents relied on by the learned Judge for allowing the writ petition, have not been produced before the concerned District Committee headed by the Collector of Dindigul District and therefore, since the procedure



contemplated, have not been followed, the official respondents, had come forward to file this writ appeal.

3. In response to the said submission, Mr. R. Venkatesan, learned counsel appearing for the respondent/writ petitioner, would submit that the respondent/writ petitioner is aged about 92 years and has drawn the attention of this Court to the typed-set of documents, dated 08.06.2017 and would submit that the Co-Prisoner Certificate has been issued by Mr. I. Mayandi Bharathi, Son of Shri. Irulappa Asari, residing at 13/10, A. Subbarayar Street, Kakatope, Town Hall Road, Madurai Town, as well as Mr. A. C. Periyasamy, President of Tamil Nadu Freedom Fighters Samyathi, 4, Valluvar Third Cross Street, Jeeva Nagar, Madurai - 625 011, and also produced the original of the letter bearing Ref: T.N.C.C:-8L/6758, issued by Mr. O. V. Alagesan, President of Tamil Nadu Congress Committee, 111, Mount Road, Chennai - 6 and as such, the impugned order passed by the learned Judge, may not warrant interference.

4. This Court has considered the rival submissions and also perused the materials placed before it.

5. The only ground urged by the learned Government Advocate appearing for the appellants is that since those documents have not been produced before the District Committee and were produced before this Court directly, the impugned order, allowing the writ petition, may not be sustained.

6. This Court, in order to avoid the said technical defence and to meet the ends of justice, directs Mr. R. Venkatesan, learned counsel appearing for the respondent/writ petitioner, to get authorisation from the respondent and produce the original of the above said three certificates before the District Collector, Dindigul District, Dindigul - second appellant herein, on 27.02.2018 at 04.00 p.m. and it shall be received and placed before the concerned Committee, who shall look into the same and pass appropriate orders, on merits and in accordance with law, on or before 16.03.2018 and also take note of the Judgment rendered by the **Hon'ble Supreme Court of India** reported in **(2001) 8 Supreme Court Cases 8 [Gurdial Singh v. Union of India and others]**.



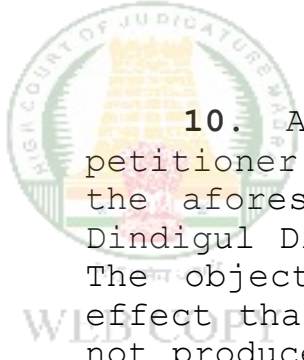
5. Thereafter, the matter was listed on 23.03.2018, on which date, it was represented that in compliance of the order of this Court, dated 13.02.2018, the District Collector, Dindigul District, has conducted an enquiry and made a positive recommendation to the Deputy Secretary to Government, Political Pension - II, Public Department, Secretariat, Chennai-600 009, vide communication, dated 13.03.2018 and that the response of the Government is awaited. Accordingly, the matter was adjourned to 23.04.2018. Thereafter, the matter was adjourned at the request of the learned Special Government Pleader on three occasions to get instructions with regard to the subsequent development.

6. Today (i.e.18.06.2018), when the matter was taken up for hearing, Mr.V.R.Shanmuganathan, learned Special Government Pleader, submitted that the Government has chosen to grant freedom fighter pension to the writ petitioner and to that effect, an order dated 17.04.2018 has been passed and consequently, the District Collector, Dindigul, has also sent a communication, dated 09.06.2018, to the Government Pleader informing that the Government has sanctioned freedom fighter pension to the writ petitioner with effect from 17.04.2018.

7. Mr.V.R.Shanmuganathan, learned Special Government Pleader, though sought to contend that the grant of freedom fighter pension to the writ petitioner is by way of interim measure, we are not in a position to appreciate such a contention more particularly when the interim order passed by this Court on 13.02.2018 had only directed the Authorities concerned to pass appropriate orders on merits and in accordance with law, after perusing the original certificates, which were directed to be produced by the writ petitioner. Thereafter, it is a matter of fact, the District Collector, Dindigul District, conducted an enquiry and made a positive recommendation to the Government for grant of freedom fighter pension to the writ petitioner. Consequently, the Government has also chosen to pass an order dated 17.04.2018 without having any reservation as to the entitlement of the writ petitioner to get such a pension. Therefore, it is evident that the appellants have now chosen to grant freedom fighter pension to the writ petitioner by passing an order on merits as directed by the Writ Court as well as by the Division Bench. When such being the factual position, the contention of the learned Special Government Pleader that the grant of freedom fighter pension to the writ petitioner is by way of interim measure is untenable.

8. Now, the only question arises for consideration is whether such a freedom fighter pension can be granted only from the date of the order or from the date of the application.

9. The Writ Court has directed the Authorities concerned to grant freedom fighter pension to the writ petitioner from the date of the original application. Now, the appellants are satisfied to grant freedom fighter pension to the writ petitioner and consequently, they have also passed an order to that effect as stated supra.



10. At this juncture, it is to be noted that the writ petitioner was directed by this Court to produce the original of the aforesaid three certificates before the District Collector, Dindigul District, when an interim order was passed on 13.02.2018. The objection raised by the appellants herein is also to the effect that the original of the aforesaid three certificates were not produced by the writ petitioner before the District Committee. Therefore, it is seen that only after the writ petitioner produced original of those three certificates, the Authorities concerned, after being satisfied with the same, have chosen to grant freedom fighter pension to the writ petitioner. Therefore, we find that there is some delay on the part of the writ petitioner also in producing the original of those three documents before the authorities. Hence, in all fairness, we find that the grant of freedom fighter pension to the writ petitioner should be reckoned, even though not from the date of the application, at least from the date of his representation, dated 08.06.2017.

11. Accordingly, the writ appeal is disposed of by directing the appellants to pay freedom fighter pension to the writ petitioner with effect from 08.06.2017 and the arrears of such pension shall be paid to the writ petitioner within a period of six weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Joint Secretary,
Public (Political Pension) Department,
Fort St. George, Chennai-600 009.

2. The District Collector,
Collectorate Office,
Dindigul District, Dindigul.

+ 1 cc TO Mr.R.Venkatesan , Advocate in SR No. 68919
+ 1 cc TO The Special Government Pleader in SR No. 68626

krk

AE/SKN RSK/SAR3/25.06.2018/5P/5C

**W.A. (MD) No.184 of 2018
and**

**C.M.P. (MD) No.994 of 2018
18.06.2018**