



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P (MD) No.12145 of 2015

and

M.P (MD) Nos.1 and 2 of 2015

Selvi M.Joice

represented through her brother,

George

... Petitioner

Vs.

1. The Government of India,
represented by its
Ministry of Home Affairs,
2nd Floor, New Delhi City Centre - II,
Jai Singh Road,
New Delhi - 110 001.

2. The District Collector,
Kanyakumari District,
Nagercoil.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings of the first respondent in F.No.119/Gen/TN/97/2015-FF (SZ), dated 20.05.2015 and quash the same and consequently, direct the first respondent to pay the Freedom Fighters Pension SSS to the petitioner continuously.

For Petitioner : Mr.S.Palani Velayutham

For Respondents : Mr.S.Jeyasingh for R.1

Mrs.J.Padmavathi Devi
Special Government Pleader for R.2

ORDER

The petitioner is a daughter of a freedom fighter. Her father, during his life time, was awarded freedom fighters' pension and it was continuously received by him and after his death, his family was also receiving the same. But, suddenly, based on a certificate issued by the District Collector, the pension was discontinued. Aggrieved over the same, the petitioner is before this Court.



2. According to the learned Counsel for the petitioner, the petitioner is a mentally retarded person and she is represented by her brother before this Court. She is solely depending on the freedom fighters' pension given to them and that has been abruptly stopped on the basis of a certificate without conducting any enquiry on the same. In such circumstances, the petitioner seeks to set aside the same and continue to pay the freedom fighters' pension to her.

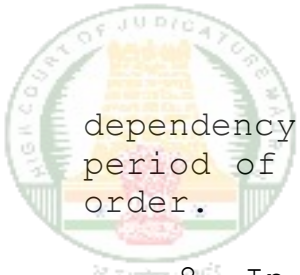
3. Controverting the contentions made by the learned Counsel for the petitioner, the learned Counsel for the first respondent would submit that married daughters are not entitled to receive the freedom fighters' pension as per the conditions set out in the scheme. It is not that the respondents on their own, have discontinued the pension, but it is based on a certificate issued by the District Collector, who is a competent person to recommend the case to the Central Government. Therefore, there is no infirmity in the order passed by the first respondent and the same need not be interfered with.

4. I have heard rival contentions.

5. Admittedly, the freedom fighters' pension is granted to the father of the petitioner during his life time. It is also seen that the petitioner is represented by her guardian and brother before this Court. There is no specific detail as to her mental status by the respondents. The District Collector appears to have forwarded the report obtained from his subordinates and has held that the petitioner is a destitute widow, but the factual aspect is disputed by the petitioner as she is said to have been mentally retarded patient under the care and custody of her brother.

6. This Court cannot go into the factual disputes and therefore, the matter has to be examined in detail after affording opportunity of personal hearing to the parties concerned. Insofar as the impugned order passed without following the principles of natural justice by affording an opportunity of personal hearing to the petitioner before discontinuance of the pension is concerned, it is bad in law.

7. Therefore, the impugned order passed by the first respondent in F.No.119/Gen/TN/97/2015-FF (SZ), dated 20.05.2015, is set aside and the matter is remanded to the respondents for fresh consideration. The respondents shall verify the factual statements made by the petitioner as to the mental status and dependency of the daughter. In the event, the respondents come to the conclusion that the petitioner is a dependent of the freedom fighter, they shall take a decision to continue the freedom fighters' pension to her, after giving opportunity of personal hearing to the petitioner. Accordingly, a direction is issued to the respondents to conduct an enquiry as to the mental status and



dependency of the petitioner and pass orders on merits within a period of three months from the date of receipt of a copy of this order.

8. In the result, this writ petition is partly allowed to the extent indicated above. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Ministry of Home Affairs,
Government of India,
2nd Floor, New Delhi City Centre - II,
Jai Singh Road,
New Delhi - 110 001.

2. The District Collector,
Kanyakumari District,
Nagercoil.

+1cc to Mr.S.Palani Velayutham, Advocate Sr.No.72326

+1cc to Mr.S.Jeyasingh, Advocate Sr.No.72009

+1cc to The Spl. Government Pleader Sr.No.72281

RSB

VB/KAK/SAR3/10.08.2018/3P/6C

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and
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