

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
02.08.2018	23.08.2018

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THE HONOURABLE MR. JUSTICE M.S.RAMESHW.P. (MD) No.14019 of 2018andW.M.P (MD) No.12719 of 2018

K.Balakrishnan

... Petitioner

vs.

1.The Government of India,
Represented by Secretary,
Ministry of Home Affairs
(Freedom Fighters Division)
Lok NayaBhavan, New Delhi.

2.The Government of Tamil Nadu,
Represented by its Sectetary,
Public (General) Department,
Secretariat, Chennai.

3.The District Collector,
Madurai District, Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the original impugned order bearing No.52/CC/TN/02/2014-FF (SZ) dated 13.06.2018 by the 1st respondent and quash the same and consequently direct the respondents to grant pension under the Swatantrata Sainik Samman Pension Yojana Scheme to the petitioner from the date of his application dated 02.04.2012.

For Petitioner : Mr.K.Samidurai

For R1 : Mr.L.Victoria Gowri

For R2 & R3 :Mr.J.Gunaseelanmuthiah

Additional Government Pleader

O R D E R

Read Mr.K.Samidurai, learned counsel appearing for the petitioner, Mr.L.Victoria Gowri, learned counsel appearing for the



first respondent and Mr.J.Gunaseelanmuthiah, learned Additional Government Pleader appearing for the second and third respondents.

2. It is the case of the petitioner that he had actively participated in the freedom movements of our Country, during which time he was imprisoned at Vellore Jail from 05.11.1942 to 05.07.1943 for participating in the Quit India Movement Struggle. Thereafter, he had remained underground for more than six months from 15.07.1943 to 05.07.1944. The State Government had granted Freedom Fighters Pension to the petitioner in the year 2004 in recognition of his participation in the Freedom Struggle. The first respondent had introduced a scheme called Swatantrata SainikSamman Pension (SSS Scheme) with the effect from 01.08.1980. Since the petitioner had undergone imprisonment for more than six months, he was eligible for the Freedom Fighters pension under the Swatantrata SainikSamman Pension (SSS Scheme). As per the scheme, the petitioner was required to obtain certificates from his co-prisoners and accordingly, two certificates from Veteran freedom fighters Sri.I.Mayandi Bharathi and Sri.A.C.Periasamy was obtained by the petitioner and he has applied under the SSS Scheme on 02.04.2012. When the petitioner's request came to be rejected by the first respondent herein, he had challenged the same in a writ petition in W.P.(MD)No.19670 of 2013 and this Court, by an order dated 13.04.2017 had set aside the order and directed the second respondent herein to comply with certain requirements with a further direction to the Central Government to re-consider the application.

3. Pursuant to the order, the petitioner herein had produced all the certificates and documents to the third respondent along with recommendation of the District level screening committee. The second respondent herein had also recommended the petitioner's claim for pension. In this background, the petitioner's request came to be rejected by the second respondent herein through the impugned order dated 13.06.2018, on the ground that the co-prisoners' certificate of A.C.Periasamy and I.Mayandi Bharathi were not acceptable since they had been imprisoned during freedom struggle at Allipuram Central Jail, Bellari District and Tanjore Jail respectively, while the petitioner herein was imprisoned at Vellore Jail and not along with the other two freedom fighters. Thus the petitioner's request for Freedom Fighters Pension came to be rejected.

4.Challenging the same, the present writ petition has been filed.

5. It is not in dispute that the petitioner herein was the recipient of the State Government Freedom Fighters Pension in the year 2004. It is true that being a recipient of the State Government's Pension will not automatically entitle the petitioner to seek pension under the Central Scheme. The only ground for rejection is that the petitioner was not imprisoned along with the two other freedom fighters, who had issued the co-prisoners certificate. The respondents have not denied the fact that the



petitioner herein was imprisoned at Vellore prison for his involvement in the quite India Movement Struggle.

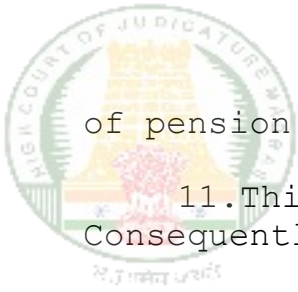
6. The object of understanding the freedom fighters pension is to recognize the involvement of Freedom Fighters, who had struggled for our Country and were also imprisoned for such struggle. When the scheme is floated with a noble object, it is rather unfortunate that the respondent herein had been taking such baseless reasoning for rejecting the petitioner's request. When the impugned order does not deny the petitioner's claim of having been imprisoned at Vellore Prison, it can only be concluded that the respondent's herein have accepted the fact that the petitioner had participated in the freedom struggle and was also imprisoned at Vellore Prison. Since the norms for grant of pension requires a certificate from a co-prisoner, the impugned order has been passed stating that the certificates were issued by freedom fighters who were not imprisoned in Vellore along with the petitioner.

7. While dealing with freedom fighters pension scheme, two aspects that need to be borne in mind by the respondents are that the claimants would definitely be more than 70 years of age and that the main criteria to sanction a loan would be as to whether the claimant had participated in the freedom struggle or not. When the impugned order does not deny that the petitioner herein was imprisoned at Vellore Jail, it automatically follows that they have accepted the fact of his participation in the freedom struggle.

8. The co-prisoners certificate is only a document to affirm and ratify that the claimant had participated during the freedom struggle and as such, the word 'co-prisoners' should not be considered in its strict meaning, but would suffice if such a freedom fighter had the knowledge that the claimant was also involved in the struggle and imprisoned. As such, the reasoning of the first respondent herein is not only baseless, but also an arbitrary action.

9. In view of the above observations, I have not hesitate to hold that the petitioner herein was a freedom fighter, who had been imprisoned for his involvement in the freedom struggle at Vellore Prison and as such, he has entitled for the pension under the Swatantrata Sainik Samman Pension (SSS Scheme).

10. In the result, the impugned order dated 13.06.2018 bearing No.52/CC/TN/02/2014-FF (SZ) on the file of the first respondent herein is quashed. Consequently, the first respondent is directed to grant pension to the petitioner under the Swatantrata Sainik Samman Pension (SSS Scheme) from the date of application namely 02.04.2012 and continue to pay the same till his life time. Such an exercise of disbursing arrears of pension shall be completed within a period of two weeks from the date of receipt of a copy of this order. The first respondent shall also pay interest on the outstanding arrears



of pension at the rate of 7.5% per annum.

11. This Writ Petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-II)

Sub Assistant Registrar (CS-I)

To

1. The Secretary,
Government of India,
Ministry of Home Affairs
(Freedom Fighters Division)
Lok Naya Bhavan, New Delhi.
2. The Secretary,
Government of Tamil Nadu,
Public (General) Department,
Secretariat, Chennai.
3. The District Collector,
Madurai District, Madurai.

+1cc to Mr. K. Samidurai Advocate in SR.No.80298.
+1cc to M/s. L. Victoria Gowri, Advocate in SR.No.79696.

DP/DAS
DS RSK SAR-1;07.09.2018; 4P/6C

Order made in

W.P. (MD) No.14019 of 2018
and
W.M.P (MD) No.12719 of 2018
23.08.2018