



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 01.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ
W.P.(MD) No.7345 of 2017

WEB COPY

M.Pancharathinam

... Petitioner

vs.

The Union of India,
Ministry of Home Affairs,
Grih Mantralaya rep. by Secretary,
2nd Floor, NDCC-II,
Jain Singh Road, Parliament Street,
New Delhi 110 001.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of certiorarified Mandamus calling for the records relating to the impugned order of the respondent in F.No.52/CC/TN/48/2009-FF (SZ) dated 23.01.2017, quash the same and consequently direct the respondent herein to disburse the arrears of pension from the date of application dated 29.12.1980 together with interest thereon.

For Petitioners : Mr.B.Muruganandham
For Respondents : Mr.K.R.Laxman

O R D E R

Challenge in this writ petition is to the order passed by the respondent in proceedings F.No.52/CC/TN/48/2009-FF (SZ) dated 23.01.2017, wherein, the freedom fighter pension was sanctioned from the date of approval by the competent authority prospectively.

2.Originally, this Court in a writ petition in W.P.(MD).No.3546 of 2009 by its order dated 02.11.2012, directed the respondent to grant dependant family pension prospectively. As per the judgment of the Honourable Supreme Court in Union of India and Others Vs. Kowsalya Devi reported in 2007 (9) SCC 525, pension can be given from the date of order of the Court, in the cases, where only the secondary evidence is available and it cannot be made from the date of application made by the petitioner. But, in the instant case, since the Court did not mention the date from which the petitioner is entitled for pension, it is considered that from the date of approval made by the competent authority and the claim of arrears was also rejected.

3.This Court admitted this matter and issued notice to the respondent. The respondent has filed a counter stating that as per clause 1.4 of the guideline,

"In case of primary evidence-pension shall be paid from the date of the application."

In case of secondary evidence-pension shall be paid from the

date of the court order.

In case of doubtful nature of evidence-pension shall be paid from the date of the court order

and have agreed to grant pension from the date of the order passed in W.P.(MD).No.3546 of 2009 viz., 02.11.2012.

4.Since the respondent themselves have come forward with the counter affidavit that they would comply with the order, as per the judgment of the Honourable Supreme Court in Union of India and others Vs. Kowsalya reported in 2000 (9) SCC 525, this Court is inclined to take the statement of the respondent on record and direct them to pay the pension with effect from the date of order viz., 02.11.2012. The interest on pension from 02.11.2012 should also be paid by the respondent within a period of six weeks from the date of receipt of a copy of this order.

4.In the result, the writ petition is disposed of with the above observations. No costs.

Sd/
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar(CS-I)

To

The Secretary,
Ministry of Home Affairs,
The Union of India,
Grih Mantralaya,
2nd Floor, NDCC-II,
Jain Singh Road, Parliament Street,
New Delhi 110 001.

+1cc to Mr.B.MURUGANANDAM, Advocate, SR.No. 76505

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VS

KK/SKN RSK/SAR-1/09.08.2018/2P-3C/