



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.10.2018

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.[MD]No.8450 of 2017

WEB COPY

Lakshmi

: Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Tuticorin District,
Tuticorin.

2.The Tahsildar,
(Social Security Scheme),
Ettaiyapuram,
Tuticorin District.

3.The Tahsildar,
(Social Security Scheme),
Vilathikulam Taluk,
Vilathikulam,
Tuticorin District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to pay the amount due to the petitioner towards her Destitute Women Pension.103/11/98/KLP for the period from Feb 2004 as communicated by the second respondent in his reference in Na.Ka.No.Sa.Pa.Thi2/1897/13 dated 17.02.2014 and to continue to pay the same.

For Petitioner : Mr.S.Natarajan

For Respondents : Mr.S.Angappan
Government Advocate

O R D E R

The petitioner is the native of T.Shanmugapuram Village of Ettaiyapuram Taluk, Tuticorin District. She got married to one Ramachandran @ Ramasamy of Rajapatti. After marriage, the petitioner was living with her husband at Rajapatti, Ettaiyapuram Taluk. Due to misunderstanding between the petitioner and her husband, the petitioner returned to her parental home. Thereafter, she applied for pension under Destitute Women Pension Scheme. The same was sanctioned and the petitioner was receiving the pension till January 2004.



2.While so, the petitioner was hospitalised and took treatment for a long period. At that time, the petitioner, having no relative, was looked after by her distant relative at Vathalakari village, Vilathikulam Taluk. After having discharged from the hospital, the petitioner stayed at Vathalakari village itself at the request of some of her distant relatives. After January 2004, the petitioner was refused to the pension towards Destitute Women Pension Scheme. In this connection, the petitioner has been approaching the second respondent. Since, there was no response to her representation, she has filed a written representation on 12.07.2011. Later, a communication was sent by the Member of the Legislative Assembly on 02.08.2011, who recommended the case of the petitioner for grant of destitute pension. Thereafter, the petitioner was included in the list of pensioners under below poverty line.

3.In the above circumstances, the petitioner submitted a representation on 17.02.2014, seeking for continuation of pension from the date it was stopped. However, the petitioner was informed by communication dated 17.02.2014, that the petitioner would be paid with the pension. Thereafter, the petitioner was awaiting the grant of pension and the arrears. However, since the same was not forthcoming, the petitioner sent a further representation on 18.05.2015, referring the communication of the Tahsildar and requested the officials to pay the pension from February 2004 onwards continuously, with 18% interest. In this regard, a notice was also sent on 28.12.2016 to the first respondent. Since no action was taken in regard to the sanction of the destitute pension, the petitioner is before this Court.

4.Heard the learned Counsel for the petitioner.

5.In response to the notice ordered by this Court, the respondents entered appearance and filed counter. In the counter affidavit, in paragraph No.5, it is stated as follows:

"5.I submit that the averments in para 4 of the affidavit is not sustainable one. It is true that the petitioner had applied for OAP under Amma Scheme on 10.09.2013. But she had a family card from 2005 onwards in Vathalakkarai laong with one Rajaram in the status of "Kudumba Thalavi". Further she is having bank account with ATM card. In ID No.85400684277 apart from OAP Bank Account. Her ration card number is 28/G/0289403. Hence she is not eligible for OAP also as per G.O.(Ms)No.224 dated 17.04.2015."

6.As per the affidavit submitted to the learned Government Advocate, it is submitted that the petitioner is living with one Rajaram, who is having 20 acres of land and in the family card, the petitioner is



described as a family head and she also has a bank account with ATM card. Therefore, as per the Destitute Pensioners Scheme, the petitioner is not eligible for pension and therefore, the same was discontinued.

7. At this, the learned Counsel for the petitioner would submit that there appears to be some confusion in regard to the name of the petitioner, since with the same name, the said Rajaram had a sister and she had expired. Unfortunately, the authorities have mistaken the petitioner as that of the other person. Learned Counsel would submit that the petitioner is a destitute and was merely living with the distant relative who are willing to take care of her in her old age after she was discharged from the hospital. Therefore, merely because the petitioner has shifted her residence and was living with her distant relative, it cannot be said that she was having individual income in order to be denied pension.

8. This Court has directed the respondents to submit instructions with regard to the claim of the petitioner herein. In response to the said direction, the learned Government Advocate produced a communication dated 27.09.2018, stating that it is true that the petitioner was having a smart card and she has been described as a head of the the family in the card and reference to the name Lakshmi is only in respect of the present petitioner and not anybody else.

9. However, this statement has been strongly refuted by the learned Counsel for the petitioner saying that the petitioner is not living with the blood relative, but with the distant relative only in respect of sharing of shelter. Only by virtue of the fact that she was living with the distant relative, destitute pension cannot be denied. Unless it is established by the respondents that she had sufficient financial background and the petitioner has sufficient resources to sustain herself, the destitute pension cannot be denied.

10. This Court has given its anxious consideration to the submissions made on behalf of the counsel appearing on either side. As rightly contended by the learned Counsel for the petitioner, the petitioner had been granted destitute pension and the same was being paid till January 2004. However, the same was discontinued on the ground that she was living with one Rajaram, who has got enough properties. Although, it is admitted by the petitioner that she is living with the said Rajaram, it is not established by the respondents that Rajaram was supporting her by all means. Merely because the petitioner was sharing a shelter with the distant relative in her old age cannot be a reason for denying her destitute pension. No material has been produced before this Court by the respondents to demonstrate that the petitioner has sufficient means to support herself. In the absence of any



material, this Court has no reason to disbelieve the version of the petitioner that she was fully dependent on the Destitute Women Pension and was merely taken care of by her distant relative and was sharing only the shelter.

11. In regard to the description of the petitioner as the head of the family in the family card, the learned Counsel for the petitioner submitted that the said mistake has been rectified subsequently and the amended family card has been issued, describing Rajaram as the family head. Unless or until the relationship between the petitioner and Rajaram is established to the satisfaction of this Court, this Court cannot presume that the petitioner was in relationship to the extent of denying destitute pension to the petitioner.

12. As stated earlier, merely because the petitioner is sharing accommodation with her distant relative in order to secure her safety and wellbeing, she cannot be denied the pension on that ground alone, since at the time when the destitute pension was sanctioned, an enquiry was conducted by the competent authority and only on being satisfied with her entire claim, the same was sanctioned. Therefore, in the said circumstances, unless the authorities are ready to show any change in circumstances, it is not for the authorities to discontinue the pension.

13. For the above said reasons, this Court is of the view that the petitioner has made out a case for grant of relief. In view of the same, there shall be a direction to the respondents to pay destitute Women Pension to the petitioner from February 2004, with arrears as expeditiously as possible. The order complying with the direction of this Court shall be passed by the respondents, within a period of four [4] weeks from the date of receipt of a copy of this order.

14. The Writ Petition stands allowed, accordingly. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Collector,
Office of the District Collector,
Tuticorin District,
Tuticorin.



2.The Tahsildar,
(Social Security Scheme),
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(Social Security Scheme),
Vilathikulam Taluk,
Vilathikulam,
Tuticorin District.

+1 cc to Mr.S.Natarajan , Advocate SR.No.89509

MR

ORDER MADE IN
W.P. [MD] No.8450 of 2017
09.10.2018

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