

THE HON'BLE SRI JUSTICE P.KESHA VA RAO

WRIT PETITION NO. 10303 OF 2015

ORDER:

Heard the learned counsel for the petitioner as well as the learned Additional Standing Counsel appearing for respondent Nos. 1 and 2.

2. The prayer sought in the Writ Petition is as under:

“... to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS, declaring the inaction on the part of the respondents in rejecting the case of the petitioner for freedom Fighter Pension dated 27.2.2014 on the ground that the revised policy guidelines issued under letter F.No.112/12/2015-FF (HC) dated 27.2.2013 is illegal, arbitrary and unconstitutional and consequently direct the respondent herein to consider the application of the petitioner for claim of the Freedom Fighter Pension irrespective of the guidelines dated 6.8.2014.”

3. The facts of the case are that the petitioner is the wife of one late Guravaiah who was a freedom fighter, died on 14.8.2007. He has participated in the freedom struggle and is eligible to claim the freedom fighters pension under Swatantrata Sainik Samman Pension Scheme, 1980. The petitioner made an application on 2.2.2008 to the Secretary, Welfare Society for Freedom Fighters, Pune, but no action has been taken. The petitioner also sent a letter dated 28.1.2014. Even on the said letter, there was no response. However, respondent No.2 rejected the request of the petitioner for grant of dependant family pension under the impugned orders stating that the petitioner is not eligible as per the revised policy vide proceedings F.No.112/12/2015-FF (HC) dated 27.2.2014 (in the counter affidavit it is rectified as 27.2.2015).

4. Respondent Nos. 1 and 2 filed a detailed counter affidavit denying the material allegations made in the affidavit filed in support of the Writ Petition and contended inter-alia that the petitioner is not entitled for the family pension in the light of Clause 1.5 of the Regulations issued in proceedings F.No.45/03/2014-FF (P) dated 6.8.2014, which contemplates that no pension shall be sanctioned in the name of the freedom fighter after his/her death even if his/her matter was under examination. The same also entails that no life time arrears or dependant pension shall be sanctioned to his/her spouse/daughter after the death of the freedom fighter, apart from other aspects.

5. In the case on hand, admittedly, though the petitioner submitted an application for grant of pension in place of her husband being a freedom fighter, the same was not sanctioned till issuance of the revised guidelines. When Clause 1.5 puts an embargo for consideration of grant of pension to the dependants, it cannot be said that the petitioner is entitled for the family pension.

6. Therefore, this Court is of the opinion that there is no irregularity or illegality in the order passed by respondent No.2 in rejecting the claim of the petitioner.

7. Accordingly, the Writ Petition is dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

P. KESHA VA RAO,J

Date: 26.11.2018

KPM