

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.1398 of 2019
&
C.M.P.No.9648 of 2019

1. The Additional Secretary to Government,
Personnel and Administrative Department,
General (Political Pension-3) Department,
Fort St.George, Chennai - 600 009.
2. The District Collector,
Vellore District,
Vellore - 9.

...Appellants/Respondents 2 & 3

-vs-

1. V.Reithinabai ...Respondent/Petitioner
2. Union of India
Rep by the Secretary,
Ministry of Home Affairs,
New Delhi - 1.

...Respondent/1st respondent

Writ Appeal filed under Clause 15 of Letters Patent against
the order of this Court in W.P.No.32228 of 2014 dated 19.07.2018.

W.P.No.32228/2014:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified Mandamus calling for the records pertaining to the impugned order vide letter/No.29588/AO-3/2011-15 dated 7-6-2013 issued by 2nd Respondent the additional secretary (political pension-3) department fort st.george chennai-600 009 the second respondent here in and order No.Na.Ka.F1/1249/2013 dated 27.06.2013 issued by the District Collector Vellore District Vellore and to quash the same and to direct the respondents 2 to 3 to sanction the political pension granted to the freedom fighters and consequently direct the 1st respondent the union of india Rep.by the secretary Ministry of Home Affairs New Delhi-1 to station the political pension to the freedom fighter under the

Swanthantra Sainik Samman pension scheme 1972 to the Petitioner from the date of representation made by the Petitioner's husband V.M.Venkatesan recorded by the 3rd Respondent with interest.

(Prayer amended as per order dated 12.07.2017 made in W.M.P. 19088/2017)

For appellants : Mr.R.P.Prathap Singh
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by T.S.Sivagnanam, J.)

This appeal by the writ petitioner is directed against the order in W.P.No.32228 of 2014 dated 19.07.2018.

2. The said writ petition was filed by the first respondent herein Tmt.V.Reithinabai. The writ petitioner's husband Thiru V.M.Venkatesan and his father Shri G.V.Masilamani Mudaliar were freedom fighters and it is stated that the writ petitioner's father-in-law established Jawaharlal Nehru Sarkar Sangam in the year 1930 at Arasamaram Pettai, Vellore. Further, he was the agent for Tamil Nadu Seithi Pathirikai, Sudhandira Sangu and Navasakthi and was actively involved in the freedom movement. The writ petitioner's husband Mr.V.M.Venkatesan is stated to be followed footsteps of his father and also actively involved in the freedom movement. He acted as Sevathalam Thondar, in the conference conducted by the Congress Leader Kavikuil Smt.Sarojini Naidu.

3. Further, the writ petitioner's husband in the year 1941 involved himself in the Sathyagraham Movement at Konavattam and at Chennai and he was detained at Central Prison, Chennai for a period of one and half month and in the year 1942, he was detained at Sub-jail, Vellore for a period of one month and in Thorapadi Central Jail for a period of six months.

4. In the year 1984, the appellant's husband applied for grant of freedom fighters pension, since he was unable to obtain jail certificate as such those records were not traceable, he approached co-prisoners for co-prisoner certificate and those persons were authorized by the Government to issue such certificate. Accordingly, he had obtained certificates from Thiru M.Venugopal, a freedom fighter from Tirupathur, Thiru. Kandasamy Mudaliar from Pitchanur, Kudiyatham Taluk and from Thiru.M.K.Ramasamy, Kuyapettai, Vellore.

5. The District Collector/second appellant herein by

proceedings dated 23.05.2006 has recommended the case of the writ petitioner's husband for grant of freedom fighters pension. There was a second recommendation made by the District Collector on 26.09.2006. However, during the life time of the writ petitioner's husband, he did not get pension and he died at the ripe age of 85 years on 13.11.2006. The writ petitioner perused the matter and submitted representations to the second appellant by proceedings dated 17.05.2011, directed the Tahsildar, Vellore to conduct an enquiry. However, by proceedings dated 27.06.2013, the second appellant rejected the application on the ground that the writ petitioner's husband has not produced the relevant document to prove that he was a freedom fighter.

6. This has been put to challenge by the writ petitioner by filing W.P.No.32228 of 2014. The second appellant filed a counter affidavit and stated about the various Government Orders which have been passed constituting committees for screening the applications for grant of freedom fighter pension. Paragraphs 7 and 8 of the counter affidavit alone deal with the merits of the writ petitioner's claim. The reason for rejection as stated in the counter affidavit which is also found in the impugned order in the writ petition is that the person viz., Thiru.Venugopal who issued certificate for writ petitioner's husband was detained from 08.04.1941 to 07.05.1941 whereas the writ petitioner's husband was stated to have been detained from 20.04.1941 to 05.06.1941 and hence there is no possibility of knowing the writ petitioner's husband since he continued to remain in prison till 05.06.1941 even after the release of Thiru.Venugopal on 07.05.1941.

7. So far as, Thiru M.K.Ramasamy certificate is concerned, it is stated that period of detention is different and the place of detention is also different. This aspect of the matter was dealt with by the learned Single Bench. The date on which the writ petitioner's husband was lodged in jail, Mr.M.Venugopal was a prisoner. It does not matter that the said V.M.Venkatesan was released earlier, but the fact remains that when the writ petitioner's husband was detained or arrested and lodged in the prison and Mr.M.Venugopal was a prisoner.

8. Further more, the certificate of Mr.M.K.Ramasamy can be taken into consideration because the said freedom fighter was acclaimed freedom fighter and that is why the Government thought fit to include Mr.M.K.Ramasamy as one of the members of District Level Screening Committee. The Government having reposed confidence in Mr.M.K.Ramasamy and appointed in the District Level Screening Committee, they cannot disbelieve the statement given by the said freedom fighter and consequently, the rejection of the application for grant of freedom fighters pension by the writ petitioner's husband is unsustainable and

the learned Writ Court was right in allowing the writ petition.

9. For all the above reasons, we find that the appellants have not made out any good ground to interfere with the order passed in the writ petition. Accordingly the writ appeal fails and stands dismissed. The time granted by the learned writ Court to comply with the direction is extended by a period of four weeks from the date of receipt of copy of this Judgment. The appellants shall take note of the fact that the respondent/writ petitioner is 88 years of age as on date.

10. In the result, the writ appeal is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mrm/ssb

To

1. The Secretary,
Union of India
Ministry of Home Affairs,
New Delhi - 1.

1. The Additional Secretary to Government,
Personnel and Administrative Department,
General (Political Pension-3) Department,
Fort St. George, Chennai - 600 009.

2. The District Collector,
Vellore District,
Vellore - 9.

+1 CC to Govt. Pleader sr 37677.

Writ Appeal No. 1398 of 2019
&
C.M.P.No.9648 of 2019

SVI(CO)
SP(12/06/2019)