

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.No.34821 of 2019

AND WMP No.35584 of 2019

R.K.Venkatachalam

... Petitioner

Vs.

1.The Collector of Thiruvallur
Thiruvallur

2.The Government of Tamil Nadu
represented by Additional Secretary
Public (Political Pension) Department
Secretariat, George Fort, Chennai ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent pertaining to the order dated 20.11.2019 in F.No.15633/G.O.3/2019-6 quash the same and to direct the 2nd respondent to provide the freedom fighter pension arrears to the petitioner regarding his representation made on 29.10.2018.

For Petitioners : Mr.V.Nandagopalan

For Respondents : Mr.M.Venkadesh Kumar,
Govt.Advocate

O R D E R

Petitioner applied for Freedom fighter pension having participated in freedom struggle under the leadership of Nethaji Subash Chandra Bose as a member of Indian Independence League Burma and for having imprisoned between May 1945 and December 1945. Taking into consideration the credentials attached with his application the first respondent in his proceedings Rc.No.41246/2000/D2 dated 26.01.2003 recommended the case of the petitioner for sanction of Freedom fighter pension to the 2nd respondent. Even after the recommendation the 2nd respondent did not process the application and sanctioned the pension. Therefore, the petitioner approached the Court and pursuant to a direction issued by this Court in W.P.No.734 of 2018 dated 22.02.2018, his application was considered and Freedom fighter pension payment order No.14139 dated 14.03.18 was issued. It is stated that the pension order would take effect from the date of

the order. Petitioner made a representation. The sought for arrears of pension. Since the arrears was not sanctioned he filed another Writ petition in W.P.No.1759 of 2019 to dispose of his representation. The said representation was disposed of by letter No.15633/AO3/2019-5 dated 15.11.2019. He was called to appear for personal hearing conducted by the 2nd respondent on 18.11.2019. It was stated by his daughter that the petitioner was not in the village and that he could not participate. His counsel has participated in the enquiry and the 2nd respondent in his letter No.15633/AO3/2019-6 dated 20.11.2019 rejected the request on the ground that as per G.O.No.2064, Public department dated 28.09.1966, the pension will be paid only from the date of order and not on the date of application. Aggrieved over the same, the petitioner is before this Court.

2. Controverting the claim, the respondents filed a detailed counter and the learned Government Advocate appearing for the respondents would vehemently contend that the petitioner was granted pension and the payment of pension will commence only from the date of the order and not on the date of application. In compliance with the directions issued by this Court, pension was granted in favour of the petitioner. Therefore, he cannot claim the same from the date of application. On these grounds, the learned Government Advocate prays for dismissal of the writ petition.

3. I considered the submissions.

4. It is well settled, as submitted by the learned counsel for the petitioner that Hon'ble Supreme Court in Mukund Lal Bhandari and Ors vs. Union of India, 1993 SCR (3) 891, categorically held that pension under the scheme should be made payable only from the date on which the application was made even though it was not accompanied with necessary proof of eligibility. The said judgment of the Hon'ble Supreme Court was followed in Gurdial Singh vs Union of India & Ors. Following the above judgments Division Bench of this Court in W.A.No.1748 of 2018 dated 06.02.2019 has held that freedom fighter are entitled to pension from the date of application. The consistent stand taken by various Courts that the Freedom fighters are entitled to pension from the date of their application has attained finality. Even though petitioner is said to have submitted applications from the year 1975 to 1995, no proof has been produced before this Court. The earliest point in which the application was considered is January 2003, wherein the name of the applicant was selected by the 1st respondent for grant of Freedom fighter pension. Therefore, we can safely presume that the applicant has submitted his application for Freedom fighter pension at the end of 2002 or in the month of January 2003.

5. In the light of the judgment of the Hon'ble Supreme Court, it is very clear that the applicant is entitled to Freedom fighter pension from the date of application and not from the date of order. Therefore, the impugned order in Letter No.15633/AO3/2019-6 dated 20.11.2019 of the 2nd respondent is set aside and a direction is issued to the 2nd respondent to pay arrears of pension from January 2003 till the date of order subject to production of life certificate by the Freedom fighter/petitioner and to the credit of his bank account.

Writ petition is allowed as indicated above. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

To

1.The Collector of Thiruvallur
Thiruvallur

2.The Government of Tamil Nadu
represented by Additional Secretary
Public (Political Pension) Department
Secretariat, George Fort
Chennai.

+2cc to Mr.V.Nandagopalan, Advocate, SR.No.23146.
+1cc to Government Pleader, SR.No.23697.

सत्यमेव जयते

W.P.No.34821 of 2019
AND WMP No.35584 of 2019

NM(CO)
CSR: 18.03.2020

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