

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.16863 of 2009

ORDER

This writ petition is filed seeking the following relief:

“.....to issue a writ or direction preferably writ of mandamus declaring the letter No.4566(37)FF-I/2009 dt 23.5.2009 issued by the respondent No.2 as illegal, arbitrary, contrary to record without jurisdiction and violative of principles of natural justice and violative of Articles 14 and 21 of constitution of India and consequently set aside the said letter and further direct respondent No.1 not to cancel petitioner pension which was granted in letter No.112/542/93 FF(HC)-E dt 12.1.2004 and pass such other or further orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

Heard learned counsel on either side.

Learned counsel appearing for the petitioners contended that the 1st petitioner was granted freedom fighter's pension during 2004 and when he was receiving the pension from the Central Government, the District Collector on re-verification has submitted a report dated 7.2.2008 recommending for cancellation of the pension. It is further submitted that during pendency of the writ petition, the 1st petitioner expired on 15.08.2009 and later on, his wife was brought on record as his legal heir and the said pension was sanctioned to her. It is further contended that the issue as to whether the District Collector can recommend cancellation of

pension on re-verification without giving opportunity to the person concerned has fell for consideration before this Court in W.P.No.14799 of 2009 and this Court *vide* order dated 02.12.2014 set aside the recommendation made by the District Collector as it was made without giving opportunity to the petitioner therein. It is also contended that in the instant case also, the recommendation made by the District Collector be set aside by following the law laid down by this Court in W.P.No.14799 of 2009, dated 02.12.2014 as during his life time, the 1st petitioner received the freedom fighter's pension, and after his death, the 2nd petitioner, who is his wife, is receiving the freedom fighter's pension. It is prayed that appropriate orders be passed in the writ petition by setting aside the report of the District Collector dated 7.2.2008 and recommendation of the State Government dated 23.5.2009 for cancellation of the freedom fighter's pension to the 2nd petitioner.

Learned Assistant Solicitor General appearing for the respondents contended that since no opportunity was given to the 2nd petitioner, the report of the District Collector and recommendation of the State Government are liable to be set aside.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that

the report of the District Collector dated 7.2.2008 and recommendation of the State Government dated 23.5.2009 are liable to be set aside as the same were passed without giving opportunity to the 2nd petitioner.

Accordingly, the Writ Petition is allowed and the report of the District Collector dated 7.2.2008 and recommendation of the State Government dated 23.5.2009 are set aside. It is needless to state that the respondents shall continue to pay the freedom fighter's pension to the 2nd petitioner. No costs.

Miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 28.01.2020
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