



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.17549 of 2021
and
W.M.P.No.18651 of 2021

S.Gaffor

...Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by Additional Secretary,
Public (Political Pension) Department,
Secretariat, St. George Fort,
Chennai - 9.

2.The Collector of Chennai,
Chennai - 600 001.

3.The Tahsildar of Perumbur,
Perumbur - 600 011.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent pertaining to the Order dated 16.07.2021 of the first respondent made in letter No.34522/A.O - 3(1)/2020 - 6 and quash the same and direct the respondents to provide the State Freedom Fighters Pension arrears from the date of the application on 18.06.1997 along with the rate of interest 12% per annum for the belated payment.

For Petitioner : Mr.V.Nandagopalan

For Respondents : Mr.K.Tippu Sulthan,
Government Advocate

ORDER

By consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioner claims arrears of pension from the State Government from the date of his original application, which he claims to have made on 18.06.1997. A perusal of the



application evidences that the application was made under the Swatantrata Sainik Samman Pension Scheme to the Central Government. It is not disputed that the petitioner had not made a separate application to the Central Government seeking for Freedom Fighter's Pension from the State Government.

3. The learned counsel for the petitioner relied upon the application made by the petitioner under the Swatantrata Sainik Samman Pension Scheme to the Central Government and by referring to the portion of the application, which was forwarded to the State Government, the learned counsel submitted that one application for both the Central Government Pension Scheme and the State Government Pension Scheme is sufficient. In support of such a contention, the learned counsel placed reliance on the decision of the Hon'ble Division Bench of this Court in the case of the The Government of Tamil Nadu, Public (Political Pension) Department Vs. A.Parvathi passed in W.A.No.1748 of 2018. He further placed reliance on the decision of this Court passed in W.P.No.9509 of 2021 dated 19.04.2021 in his own case.

4. Per contra, the learned Government Advocate appearing for the respondents relied upon the averments made in the counter affidavit and submitted that as per G.O.No.2064, Public (General.C) Department, dated 28.09.1966, the Government has no powers to sanction pension from the date of application, but on the other hand, it requires to be sanctioned only from the date of issue of the sanction order.

5. Admittedly, the petitioner has not made an application to the State Government seeking for Freedom Fighters Pension. The Freedom Fighters Pension under the Central Government in Swatantrata Sainik Samman Pension Scheme, as well as under the scheme of the State Government, are two distinct pension schemes. The mode of consideration for eligibility to claim pension under both these schemes also differs.

6. In this background, when the petitioner's case was looked into, it is seen that the petitioner now claims arrears of the 'State Government' pension, from the date on which he had originally made the application on 18.06.1997 to the 'Central Government' under the Swatantrata Sainik Samman Pension Scheme. When the petitioner had not made any separate application to the State Government, this Court is unable to appreciate as to how he can claim any arrears of pension at all.

7. This leads us to the next aspect of the matter, whereby, the petitioner places reliance on the decision of the Hon'ble Division Bench of this Court in A.Parvathi's case (supra), as well as the order passed in his own case in W.P.No.9509 of 2021.



8. The respondents, in their counter affidavit, have ratified that the petitioner's claim for Freedom Fighters Pension from the State Government was considered as a "special case", in view of the orders passed by this Court in W.P.No.14733 of 2020, dated 07.12.2020. As per the counter affidavit, it is stated that on the recommendation of the District Level Screening Committee, the State Government had treated the petitioner's case as a "special case" and relaxed the eligibility criteria and thereby sanctioned the State Government Pension on 05.12.2020. Reliance is also placed on the State Government order in G.O.No.2064, Public (General.C) Department, dated 28.9.1996, wherein, the annexure relating to Madras Freedom Fighters Pension Rule No.14, stipulates that the pension sanctioned under these rules will be payable only from the date of issue of the sanction order.

9. In normal circumstances, when a freedom fighter makes an appropriate application to the State Government and when such application is sanctioned belatedly, may be such a freedom fighter may be entitled to pension from the date of his original application. However, in the present case, the petitioner had not made an application to the State Government, seeking for Freedom Fighters Pension. It is only on the basis of the orders of this Court passed in W.P.No.14733 of 2020, dated 07.12.2020, the State Government had thought it fit to abide by the recommendations of the District Level Screening Committee and thereby sanctioned the pension.

10. For the sake of convenience, the orders passed by this Court in the petitioner's case in W.P.No.9509 of 2021, is extracted hereunder:

"3. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondents and if the representation is not already disposed of earlier, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the representation preferred by the petitioner dated 15.01.2021 if the petitioner is found to be eligible and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to



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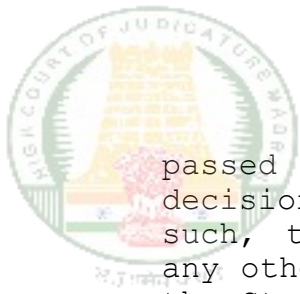
appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondents shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 15.01.2021 and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs."

11. The petitioner herein had placed reliance on the decision of the Hon'ble Division Bench in A.Parvathy's case (supra), for the proposition that the Freedom Fighters Pension would be payable from the date of application. While the freedom fighter in A.Parvathy's case (supra) had made an application seeking for pension and the Hon'ble Division Bench had found that such a freedom fighter would be eligible for pension from the date of application, the petitioner in the present case has not made an application at all, but was considered for pension as a 'special case', in view of the earlier orders of this Court



passed in W.P.No.9509 of 2021. In this factual scenario, the decision in A.Parvathy's case (supra) may not be applicable. As such, the petitioner's case, being distinct from the facts of any other freedom fighter who had made a separate application to the State Government, will not be entitled to claim pension from the date of his alleged application.

12. In the result, I do not find any merits in the present writ petition. Accordingly, the writ petition filed challenging the impugned order dated 16.07.2021, denying his Freedom Fighter Pension from 18.6.1997, does not need any interference and hence, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

hvk/drm

To

- 1.The Additional Secretary,
The Government of Tamil Nadu,
Public (Political Pension) Department,
Secretariat, St. George Fort,
Chennai - 9.
- 2.The Collector of Chennai,
Chennai - 600 001.
- 3.The Tahsildar of Perumbur,
Perumbur - 600 011.

+1cc to Mr.V.Nandagopalan, Advocate, S.R.No.43832

+1cc to the Government Pleader, S.R.No. 44280

W.P.No.17549 of 2021
and
W.M.P.No.18651 of 2021

SSV(CO)
GN(20/09/2021)