



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.147 of 2021

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M.Joice,
D/o.Joseph (late),
Rep. through her brother
namely George.

... Petitioner

vs.

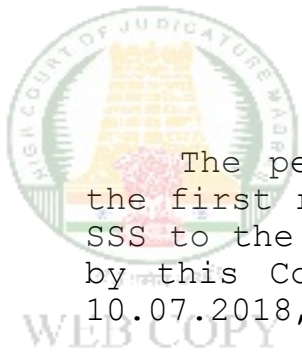
- 1.The Under Secretary,
The Government of India,
Rep. by its Ministry of Home Affairs,
F.F.R Division/South Zone Section,
2nd Floor, New Delhi City Centre-II,
Jai Singh Road,
New Delhi - 110 001.
- 2.The District Collector,
Kanyakumari District,
At Nagercoil.
- 3.The Pay & Accounts Officer,
Pay & Accounts Office (Pension & Misc),
Ministry of Home Affairs,
2/10, Jamnagar House,
New Delhi - 110 011.
- 4.The Deputy Secretary to Government,
Public (Political Pension-I) Department,
Secretariat,
Chennai - 9.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to sanction the Central Freedom Fighter Pension SSS to the petitioner continuously in the light of the order passed by this Court in Writ Petition in W.P(MD)No.12145 of 2015, dated 10.07.2018, by considering the petitioner's representation to the first respondent, dated 06.11.2020 in accordance with law.

For Petitioner	: Mr.S.Chinnaian
For RR 1 & 3	: Mr.M.Ashok Kumar
	SCGSC

For RR 2 & 4	: Mr.P.Subbaraj
	Government Advocate

**ORDER**

The petitioner has filed the present Writ Petition, to direct the first respondent to sanction the Central Freedom Fighter Pension SSS to the petitioner continuously, in the light of the order passed by this Court in Writ Petition in W.P(MD)No.12145 of 2015, dated 10.07.2018, by considering her representation, dated 06.11.2020.

2. According to the petitioner, she is the daughter of Freedom Fighter by name, Joseph, who was granted Freedom Fighter's Pension, by an order, dated 14.04.1983. After the demise of the petitioner's father, her mother was paid Family Pension and the petitioner's mother died on 10.10.2007, leaving behind one son and two daughters. The petitioner is suffering from hypertension, which is a severe form of Psychosis. Already, the petitioner was in recipient of Pension under Swatantrata Sainik Samman Pension Scheme (SSSP), 1980 and she applied for the State Pension for Freedom Fighters. The same was rejected by the State Government in Letter No.38940/AO-3/2009-1, dated 26.11.2009. Aggrieved over the same, the petitioner filed a Writ Petition in W.P(MD)No.12871 of 2010 before this Court and this Court, directed the second respondent to sanction the Freedom Fighter Pension and the petitioner has been getting the State Government Pension regularly.

3. While so, the second respondent has sent a report to the first respondent to cancel the Central Pension SSS, which had already been received by the petitioner and as such, the pension was cancelled, vide order, dated 20.05.2015. Challenging the same, the petitioner filed a Writ Petition in W.P(MD)No.12145 of 2015 on the file of this Court and this Court, by an order, dated 10.07.2018, directed the respondents 1 and 2 herein to conduct an enquiry as to the mental status and dependency of the petitioner and pass orders. Accordingly, the petitioner sent a representation, dated 06.11.2020, to the first respondent seeking sanction of the Central Freedom Fighter Pension. So far, no action has been taken. Hence, the petitioner has come out with the present Writ Petition.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. From the materials available on record, it is seen that the petitioner was getting Central Pension SSS from the first respondent, as a dependent of Freedom Fighter. Subsequently, she was also sanctioned State Freedom Fighters Pension, considering the mental status of the petitioner, after the report from the Authority. The second respondent sent a report of the Tahsildar to the first respondent to cancel the Central Pension SSS given to the petitioner and the same was cancelled by an order, dated 20.05.2015. The petitioner challenged the said order by way of filing W.P(MD) No.12145 of 2015. This Court, by an order, dated 10.07.2018, partly allowed the said Writ Petition and passed the following order:-



"7. Therefore, the impugned order passed by the first respondent in F.No.119/Gen/TN/97/2015-FF (SZ), dated 20.05.2015, is set aside and the matter is remanded to the respondents for fresh consideration. The respondents shall verify the factual statements made by the petitioner as to the mental status and dependency of the daughter. In the event, the respondents come to the conclusion that the petitioner is a dependent of the freedom fighter, they shall take a decision to continue the freedom fighters' pension to her, after giving opportunity of personal hearing to the petitioner. Accordingly, a direction is issued to the respondents to conduct an enquiry as to the mental status and dependency of the petitioner and pass orders on merits within a period of three months from the date of receipt of a copy of this order."

6. The fourth respondent on 26.03.2019 has sent the report received from the District Collector and the report of the Medical Board to prove the mental status, dependency certificate and other enclosures to the first respondent. The first respondent has not passed any order as per the directions of this Court. In such circumstances, the petitioner gave a representation, dated 06.11.2020, to the first respondent.

7. From the order of this Court, dated 10.07.2018, made in W.P (MD)No.12145 of 2015, it is seen that this Court set aside the cancellation of Central Pension SSS and directed the first respondent to consider the petitioner's case afresh taking into account the mental condition of the petitioner and dependency of the petitioner. Even though all the required documents and report of the Medical Board, Kanyakumari Government College Hospital received from the District Collector were forwarded by the fourth respondent in letter No.31262/PP.1/2018-4, dated 26.03.2019, to the first respondent, till date, the first respondent has not passed any order. The fourth respondent has also not taken any follow up action.

8. From the materials available on record, it is seen that the mental status of the petitioner was established by the Medical Board, Kanyakumari Government College Hospital and based on which, the State Pension was sanctioned. As there cannot be any dispute with regard to the mental condition of the petitioner and dependency of the petitioner, as the same has been accepted by the second and fourth respondents, the first respondent is directed to restore the Central Pension SSS to the petitioner from 20.05.2015 and pay all the arrears to the petitioner within a period of eight weeks from the date of receipt of a copy of this order and continue to pay the same.



9.With the above directions, this Writ Petition is allowed. No costs.

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Sd/-

Assistant Registrar (P&A)

/ /2021

Sub Assistant Registrar(CS)

ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Under Secretary,
The Government of India,
Rep. by its Ministry of Home Affairs,
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- 4.The Deputy Secretary to Government,
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Secretariat, Chennai - 9.

+1 CC to M/s.M.ASHOK KUMAR, Advocate (SR-20966[F] dated 02/07/2021)

+1 CC to M/s.S.CHINNAIAN, Advocate (SR-20817[F] dated 01/07/2021)

+1 CC to M/s.SPL GP (SR-21026[F] dated 02/07/2021)

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