



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2021

CORAM :

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM
AND
The Hon'ble Mrs.JUSTICE S.ANANTHI

W.A.(MD) No.559 of 2018
and
C.M.P(MD) .No.3163 of 2018

The Government of India
Represented by its Secretary,
Ministry of Home Affairs,
Freedom Fighters Division,
2nd Floor, NDCC-II,
Parliament Street,
New Delhi - 110 001.

... Appellant/Respondent No.1

Vs

1. T.Kaliammal ... Respondent/Petitioner
2. The Secretary to Government,
Public (Political Pension.I) Department,
Secretariat, Fort St.George,
Chennai - 9. ... Respondent/Respondent
3. The District Collector,
Collector Office, Madurai District. ... Respondent/Respondent

PRAYER: Appeal under Clause 15 of the Letters Patent, against the order dated 05.06.2014, passed in W.P.(MD) No.8743 of 2012.

Prayer in WP(MD). 8743/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS, to call for the records of the 1st Respondent by his proceeding No.52/CC/TN/28/2011-FF/SZ, dated 04-07-2011 and quash the same and to direct the 1st Respondent to grant Swadantrata Sainik Samman Pension Scheme to this Petitioner with all benefits and arrears from 02-07-1981.



For Appellant

: Mr.D.Saravanan

For Respondents

: Mr.A.Balakrishnan
Mr.K.P.Narayanakumar,
for R1
Mr.K.P.Krishnadoss,
Spl.Govt.Pleader for R2 & R3

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JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

This appeal by the Government of India, Ministry of Home Affairs, Freedom Fighters Division, is directed against the order dated 05.06.2014 in W.P(MD).No.8743 of 2012.

2. The said writ petition was filed by the first respondent herein challenging the order passed by the appellant dated 04.07.2011, by which the claim made by the first respondent for grant of Freedom Fighter Pension under dependent category was rejected.

3. The learned Single Bench took note of the submissions of the learned counsel for the first respondent-writ petitioner and recorded as follows:

"3. The learned counsel appearing for the petitioner submits that the impugned order passed by the first respondent cannot be sustained on the ground that the husband of the petitioner was receiving State Freedom Fighter Pension, from the year 1981 onwards, based on the recommendation of Late Mr.P.Kakkan, Freedom Fighter. The petitioner, in support of her contention, also enclosed a copy of the certificate, dated 16.07.1978, issued by Mr.P.Kakkan, who was a Co-prisoner of her husband. The learned counsel, in support of his contention, makes reliance upon an order of this Court in **A.Gopal Mudaliyar vs. Government of India**, [W.P.No.19377 of 2002, dated 30.01.2004]."

4. The learned Senior Standing Counsel for the appellant would contend that Mr.P.Kakkan has not issued a Co-prisoner Certificate as submitted before the learned Writ Court and a copy of the said certificate has been produced before us which reads as follows:

"Dear Sri Bakthvakshalam,
I here with enclose a copy of the petition of Sri.A.Thirupathy S/O.Alagumalai of Kavadanpatti Usilampatti Post & Taluk, Madurai District, Tamil Nadu State, requesting for the grant of pension for freedom



fighter. His imprisonment is certified by Sri.V.Muthu. I will be much thankful if you kindly look into the matter personally and do the needful. With kind regards."

A reading of the above certificate would shows that the certificate is not the Co-prisoner Certificate.

5. The second submission of the learned Senior Standing Counsel for the appellant is that the Co-prisoner Certificate, which was relied on by the appellant's husband, issued by Mr.V.Muthu cannot be acted upon, because he has not been authorised by the Government to issue such a certificate. In this regard, a copy of the Madurai District Level Screening Committee report has been submitted, from which, we find that several of those documents were not submitted to the authorities for consideration.

6. The submission of the learned counsel for the respondent-writ petitioner is that in Madurai District, several persons have been granted Central Government Freedom Fighter Pension based on the certificate issued by Mr.V.Muthu and there is no reason to deny the dependent pension to the first respondent-writ petitioner. In our considered view, this stand is totally a new stand taken by the respondent-writ petitioner, which has to be established by the respondent-writ petitioner and a roving enquiry in this regard cannot be made by this Court. However, considering the plight of the respondent-writ petitioner, we are inclined to grant liberty to apply afresh with adequate documents to substantiate the first respondent-writ petitioner's claim that based on the certificate issued by Mr.V.Muthu, Central Government Freedom Fighter Pension has been sanctioned.

7. For the above reasons, this Writ Appeal is allowed and the order and the direction issued in the writ petition is set aside with the liberty to the first respondent to apply afresh for grant of dependent Freedom Fighter Pension by enclosing adequate proof that certificate issued by Mr.V.Muthu was accepted by the Central Government and Freedom Fighter Pension was granted to several Freedom Fighters in Madurai District. However, if the first respondent-writ petitioner is unable to establish the same, she cannot get any relief from this Court.

8. It is submitted by the learned Counsel appearing for the respondent-writ petitioner that the respondent is receiving State Government pension of Rs.500/- per month. On account of this judgment, the said pension should not be stopped, since the State Government and Central Government Freedom Fighter Pensions are under different schemes. Any observations or findings given in this judgment will not have any impact on the payment of Rs.500/-



to the first respondent-writ petitioner by the State Government. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Secretary to Government,
Public (Political Pension.I) Department,
Secretariat, Fort St.George, Chennai - 9.
2. The District Collector, Collector Office, Madurai District.
- 3.The Secretary, Government of India
Ministry of Home Affairs, Freedom Fighters Division,
2nd Floor, NDCC-II, Parliament Street,
New Delhi - 110 001.

+1 CC to M/s.SPL GP (SR-15467[F] dated 08/04/2021)
+1 CC to M/s.D.SARAVANAN, Advocate (SR-15526[F] dated
08/04/2021)
+1 CC to M/s.A.BALA KRISHNAN, Advocate (SR-15619[F] dated
09/04/2021)

W.A. (MD) No.559 of 2018
07.04.2021

SSS(CO)

TR(05.05.2021) 4P 7C