



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 06.12.2021
PRONOUNCED ON : 15.12.2021
CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**
W.P.(MD)No.23228 of 2018

WEB COPY

Mariammal @ Deivanayaki

... Petitioner

vs.

1.The Secretary to Government,
Government of India,
Freedom Fighters Department,
Ministry of Home Affairs,
Lok Nayak Bhavan, New Delhi - 3.

2.The District Collector,
Thiruchirappalli District,
Collectorate, Tiruchirappalli-1.

3.The Tahsildar,
Tiruchirappalli East Taluk,
Taluk Office, Tiruchirappalli.

4.The Secretary to the Government of Tamil Nadu,
Fort St.George, Chennai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the first respondent to consider the petitioner's application for Freedom Fighter Family Pension/INA consequent upon the demise of the petitioner's father, Kaliappan, son of Vaithilingam, who was a Freedom Fighter, who died on 05.01.2000 and to grant the petitioner Freedom Fighter Pension/INA.

For Petitioner	:Mr.S.K.Mani
For RR1	:Mr.K.Ashok Kumar Ram Senior Panel Counsel
For R2 to R4	:Mr.N.Satheesh Kumar Additional Government Pleader

O R D E R

This Writ Petition has been filed in the nature of Mandamus seeking a direction to the first respondent to consider the application of the petitioner for Freedom Fighter Family Pension/INA consequent to the death of her father, Kaliappan, who was a Freedom Fighter and who died on 05.01.2000 and to grant the petitioner Freedom Fighter Pension/INA.



2.The petitioner is the daughter of Kaliappan, son of Vaithilingam. Her father Kaliappan was born and resided in Burma. He was a soldier in Indian National Army in South East Asia during Second World War under the leadership of Nethaji Subash Chandrabose. During the Freedom Movement, in the year 1945, she claimed, that her father joined Indian Independence League at Dallah Branch in Rangoon, Burma. In the Second World War, he served in Indian Independence League as an propagandist and fund collection. He was arrested on 25.05.1945 and incarcerated in Rangoon Central Jail upto December 1945.

3.The Writ Petitioner claimed that her father had forwarded an application on 02.08.1999 to the Director, Government of India, Ministry of Home Affairs, Freedom Fighters Division, Lok Nayak Bhavan, Khan Market, New Delhi-110 003, enclosing a copy of INA Certificate of Honour and the application form for Swantantrara Sainik Samman Pension Scheme. Along with the application, her father had also given a certificate from a co-prisoner, M.K.Ramalingam, son of Karuppiyah, who also suffered imprisonment during the Freedom Struggle and was incarcerated in Rangoon Central Jail in Burma between May 1945 and December 1945 and who was also the recipient of pension from the Central Government vide proceedings in Order No.FFF.29/MDS/181/74-FF(INA), dated 25.10.1989.

4.The petitioner further stated that her father died on 16.02.2000 and her mother Deivanayagi died on 06.01.2001. She is the only legal heir. She further stated that the application form of her father, which had been forwarded to the Ministry of Home Affairs, Freedom Fighters Pension in New Delhi, had been further forwarded to the Secretary, Government of Tamil Nadu, Public Political Pension Department, Chennai, by communication, dated 01.09.1999. However, the State of Tamil Nadu had not taken any steps to reply to the Ministry of Home Affairs, Government of India.

5.She had further stated that she had given her application for Freedom Fighters Pension to the General Pension Department, Secretariat, Chennai and the Additional Secretary, by letter No.22419-A.O.1/2014-1, dated 15.07.2014 had directed her to file an application along with relevant particulars to the District Collector, Tiruchirappalli/second respondent herein. Thereafter, the second respondent, by proceedings in Na.Ka.Vu.5 17751/14, dated 16.11.2015, had directed the Tahsildar, Thiruverumbur/third respondent to examine the particulars. The Tahsildar, by proceedings in Na.Ka.A 2-2451-2013, dated 22.07.2017, had recommended that the petitioner was eligible to get pension, as daughter of Kaliappan, Freedom Fighter. It is under these circumstances, the Writ Petition came to be filed seeking a Mandamus as stated above.

<https://hcservices.cquid.gov.in/services/> 6.In the counter affidavit of the first respondent, it had been



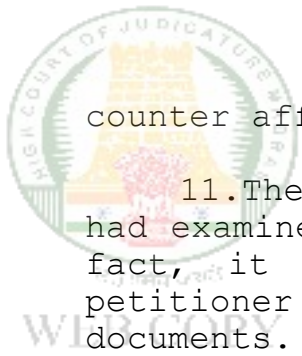
acknowledged that the father of the petitioner had given an application along with the enclosures including the certificate from a co-prisoner, directly to the first respondent. Since the State of Tamil Nadu will have to necessarily recommend grant of pension, the first respondent had forwarded the same to the fourth respondent/Secretary to Government of Tamil Nadu in Chennai, but had not received any reply from the fourth respondent. The first respondent also filed typed set of papers enclosing the application form given by the father of the petitioner herein.

7.A counter had also been filed by the second respondent/District Collector, Tiruchirappalli, wherein, it had been stated that neither the petitioner nor her father had applied for sanction of Central Government Freedom Fighters Pension and therefore, the proposal for sanctioning of Central Government Freedom Fighters Pension was not forwarded by the District Collector, Thiruvallur District in Letter R.C.No.7374/2015/D2, dated 12.08.2015. It had also claimed that the Writ Petition should be dismissed.

8.Heard the arguments advanced by Mr.S.K.Mani, learned Counsel for the petitioner, Mr.K.Ashok Kumar Ram, learned Senior Panel Counsel appearing for the first respondent and Mr.N.Satheesh Kumar, learned Additional Government Pleader for the second to fourth respondents.

9.This is an unfortunate case, which should not have entered the portals of the Court at all. The father of the petitioner had forwarded an application directly to the first respondent along with the requisite enclosures claiming that he was a Freedom Fighter and had participated in the Freedom Struggle, as member of Indian Independence League at Dallah Branch in Rangoon, Burma and that he was arrested by the British Army on 25.05.1945 and imprisoned in Rangoon Central Jail upto December 1945. He had also given the certificate of a co-prisoner in this regard. He had also enclosed INA Certificate of Honour issued by the Former Personal Secretary to Nethaji Subash Chandrabose. This application had been unfortunately forwarded directly to the first respondent.

10.The rules stipulates that the State Government should recommend grant of pension. The first respondent, therefore, forwarded the entire application to the second respondent to verify the details. I am deeply pained by the affidavit of the second respondent in questioning the credentials of the father of the petitioner. The petitioner had stated that the Tahsildar, Thiruverumber, had examined the genuineness of the certificates and had recommended that they are genuine in nature. But, the second respondent had taken a different stand. It is not known whether he actually signed the affidavit in the counter with knowledge of the contents or with deliberate intention to deny pension to the



counter affidavit of the second respondent.

11.The petitioner had stated that the Tahsildar, Thiruverumbur, had examined the documents filed by the petitioner. As a matter of fact, it is also seen that a notice had been issued to the petitioner to approach the second respondent with all the requisite documents.

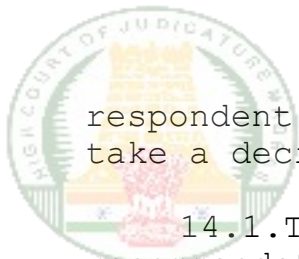
12.In **(2001) 8 SCC 8** in the case of **Gurdial Singh Vs Union of India and others**, the Honourable Supreme Court had as follows:

"7..... Once the country has decided to honour such freedom fighters, the bureaucrats entrusted with the job of examining the cases of such freedom fighters are expected to keep in mind the purpose and object of the Scheme. The case of the claimants under this Scheme is required to be determined on the basis of the probabilities and not on the touchstone of the test of "beyond reasonable doubt". Once on the basis of the evidence it is probalised that the claimant had suffered imprisonment for the cause of the country and during the freedom struggle, a presumption is required to be drawn in his favour unless the same is rebutted by cogent, reasonable and reliable evidence.

8. We have noticed with disgust that the respondent authorities have adopted a hypertechnical approach while dealing with the case of a freedom fighter and ignored the basic principles/objectives of the Scheme intended to give the benefit to the sufferers in the freedom movement....."
(Emphasis supplied)

13.It is very unfortunate that the Collector, Tiruchirappalli had also acted in the very manner which had been deprecated by the Honourable Supreme Court. I had actually been stated that the Honourable Supreme Court was **disgusted with such hyper technical approach**.

14.I would therefore, allow the Writ Petition and direct the petitioner herein to approach the second respondent with a representation in writing enclosing all the relevant documents and the application form as originally forwarded by the father of the petitioner to the Central Government. Such a representation in writing along with requisite documents should be forwarded by the petitioner herein to the second respondent/District Collector, on or before 10.01.2022. On receipt of the same, a direction is issued to the second respondent/District Collector, Tiruchirappalli, to issue notice to the petitioner to appear in person and thereafter, bestow personal attention to the grievance of the petitioner, examine the documents and if further enquiries are required, call upon the third respondent to do such enquiries and obtain a report from the third



respondent or satisfy himself or herself with a personal enquiry and take a decision in this regard on or before 10.02.2022.

14.1.The second respondent is further directed to forward the recommendations, through proper channel, through the relevant Ministry in the Government of Tamil Nadu, to the first respondent and on receipt of the same, the first respondent should pass necessary orders within a period of four weeks thereafter.

14.2.It is hoped that the time lines aforementioned would be kept by the petitioner, second respondent and the first respondent. If the second respondent requires further clarifications, then they may be sought in writing and obtained in person and forwarded to the first respondent to take a final decision on grant of pension to the petitioner in view of the services rendered by her father, Kaliappan, who was a prisoner in Rangoon Central Jail between 25.05.1945 and December 1995.

15.With the said observations, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

cmr

To

1.The District Collector,
Thiruchirappalli District,
Collectorate, Tiruchirappalli-1.

2.The Tahsildar,
Tiruchirappalli East Taluk,
Taluk Office, Tiruchirappalli.

3.The Secretary to the Government of Tamil Nadu,
Fort St.George, Chennai.

+1 CC to M/s.SPL GP (SR-39043[F] dated 16/12/2021)

+1 CC to M/s.K.ASOK KUMAR RAM, Advocate (SR-39099[F] dated 16/12/2021)

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15.12.2021

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