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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2022

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.9977 of 2021 &
WMP.Nos.10600 & 10603 of 2021

A.Michaelammal

...Petitioner

Vs

1. The Under Secretary to Government of India,
Ministry of Home Affairs,
Freedom Fighters Divisions 2nd Floor,
NDCC - II Building, Jai Singh Road,
New Delhi - 110 003
2. The District Collector of Chennai,
Chennai - 600 001.
3. The Tahsildar of Perumbur,
Perumbur - 600 011.
4. The Government of TN Rep. by
Additional Secretary, Public (Political
Pension) Department, Secretariat, St. George
Fort, Chennai -9.

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the Central scheme records of the Freedom fighters pension pertaining to the file No. 45 / 03 / 2014-FF (P) in 1.5 in the revised guidelines of the First Respondent dated 6.8.2014 and quash the same and direct the first respondent to provide the Central Government Freedom fighters pension from the date of the application 18.6.1981 along with the arrears at the rate of interest 12 percent per annum for the belated payment.

For Petitioner : Mr.V.Nandagopalan

For Respondents: Mr.Rajesh Vivekanandan,
Central Government StandingCounsel- R1

Mr.D.Ravi Chander,
Spl.Government Pleader,
for Mr.Jaya Prakash,
Government Advocate - R2 to R4



O R D E R

This petitioner is one, A.Michaelammal, wife of one late A.Arokiyam, who claims to have participated in the freedom struggle. The petitioner's husband passed away on 24.09.1994 and in the affidavit filed in support of the Writ Petition, the petitioner states that she had made an application on 11.11.1997 to the respondents seeking freedom fighters' pension.

2. Admittedly, the affidavit does not anywhere state that any application had been made in this regard by the husband of the petitioner, though at paragraphs 3 to 6, the petitioner refers to her husbands' participation in the freedom struggle, his arrest by the British Forces and subsequent incarceration at Rangoon Central Jail. She also states that her husband had obtained two co-prisoners' certificates and other evidences. However, and as a matter of fact, no application was forwarded by her husband to the respondents claiming Samman under the Swatantra Sainik Samman Yojana (SSS Scheme). The petitioner has, for her part, moved the respondents for sanction of central pension only on 11.11.1997 after his demise.

3. The defence put forth by way of counter and oral submissions made are to the effect that the application of the petitioner is bereft of requisite particulars, including very importantly, the recommendation of the State Government.

4. Respondent No.2 also refers to Clause 1.5 of the revised guidelines under the Scheme and states that no pension is liable to be sanctioned after the death of the freedom fighter, even if the matter was under examination while he was alive.

5. Rival contentions have been put forth by both learned counsel for the petitioner as well as learned counsel for the respondents on the interpretation of Clause 1.5. One thing is clear, and that is, that there is no uniformity in the interpretation of Clause 1.5 by various Courts. Fortuitously though, I need hardly traverse this aspect of the matter, as, in this case, it is very clear that the freedom fighter has not made an application seeking pension at any time during his lifetime.

6. Though some material is placed on file to show that application was prepared, there is no acknowledgement for the respondents having received the same. In such a circumstance, I believe that the claim for freedom fighter's pension for the first time by the widow of the freedom fighter, three years after his demise, is not liable to be considered favourably.

7. In light of the discussion as above, this Writ Petition



stands dismissed. The petitioner is a beneficiary of State pension that has been granted to her husband and this position shall continue uninterrupted. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sl/kbs

To

1. The Under Secretary to Government of India,
Ministry of Home Affairs,
Freedom Fighters Divisions 2nd Floor,
NDCC - II Building, Jai Singh Road,
New Delhi - 110 003
2. The District Collector of Chennai,
Chennai - 600 001.
3. The Tahsildar of Perumbur,
Perumbur - 600 011.
4. Additional Secretary,
The Government of Tamil Nadu,
Public (Political Pension) Department,
Secretariat,
St. George Fort, Chennai - 9.

+1cc to Mr.R.Rajesh Vivekananthan, Advocate, S.R.No.27941
+1cc to Mr.V.Nandagopalan, Advocate, S.R.No.27840
+1cc to the Government Pleader, S.R.No.27983

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KV(CO)
RGA(30/05/2022)