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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.18332 of 2021

and

W.M.P No.19542 of 2021

M.Velu

...Petitioner

Vs.

1. The Govt. of TN
rep. by Additional Secretary,
Public (Political Pension) Department,
Secretariat, St. George Fort, Chennai - 9.
2. The Collector of Thiruvallur,
Thiruvallur - 602 001.
3. The Tahsildar of Ponneri,
Ponneri - 601 204

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the record of the second respondent pertaining to the order dated 12.07.2021 of the second respondent made in Letter No.N.K.22737/2012/D2 and quash the same and direct the respondents to provide the State Freedom fighters pension arrears from the date of the application on 21.06.1987 along with the rate of interest 12% per annum for the belated payment.

For Petitioner : Mr.V.Nandagopalan

For Respondents : Mr.D.Ravichander
Special Government Pleader

O R D E R

The petitioner, admittedly, is a Freedom Fighter and has been granted State Freedom Fighters Pension under order dated 30.04.2021, bearing No.14153. He has been receiving pension from date of the order and has made a representation before the authority on 07.06.2021 seeking arrears of pension with interest from date of his application, i.e., 21.06.1987.



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2. The application has come to be rejected by R1, i.e., the Additional Secretary, Public (Political Pension) Department), who says that the application of the petitioner dated 21.06.1987 is unavailable and hence the question of arrears cannot be considered, since the same cannot be quantified.

3. Since, admittedly even before me has the petitioner no proof in regard to the submission of application on 21.06.1987, the Court is unable to consider his case for arrears from the aforesaid date. However, he has placed on record a letter dated 02.01.2009 issued by R1 referring to his application dated 13.12.2008, upon process of which another order dated 30.04.2021 has been passed.

4. As held in the case of A. Parvathi V. The Collector of Thiruvallur and others (W.P.No.39772 of 2015 order dated 17.12.2015), the interim delay between the date of application and date of passing of pension order is certainly not attributable to the petitioner and thus she cannot be made to suffer for the same. I am thus of the categorical view that the petitioner must be given arrears of freedom fighters pension from the period 13.12.2008 till 30.04.2021 when he became entitled to regular pension.

5. Reliance placed by the State upon a decision in the case of S.Gaffor V. The Government of Tamil Nadu and others (W.P.No.17549 of 2021 order dated 31.08.2021) is misplaced. In that case, there is a clear finding of fact in paragraph 11 that there was no application at all, filed by that petitioner and thus the question of quantification of arrears did not arise. The petitioner therein had been granted pension, as a special case, even without a formal application.

6. The present case is different insofar as there is an application dated 13.12.2008 referred to by the authority in letter dated 02.01.2009. Let the amount be quantified and paid over to the petitioner within a period of six (6) weeks from the date of uploading of order in the official website of this Court, failing which the interest clock will start ticking at the rate of 6% for every completed month of delay.

7. This Writ Petition is disposed as above. No costs. Connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar



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To

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Ponneri - 601 204

+2cc to Mr.V.Nandagopal, Advocate, S.R.No.26912

+1cc to the Special Government Pleader, S.R.No.26754

W.P. No.18332 of 2021
and
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SKM(CO)
RN(29/04/2022)