



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2022

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.28008 OF 2021

Smt.G.Louisa

...Petitioner

Vs

1.Union of India
represented by the Secretary
Ministry of Home Affairs, (FFR Division)
2nd floor, NDCC - II Building,
Jai Singh Road, New Delhi - 110 001.

2.The Collector,
Office of the Collectorate,
Chennai District, Rajaji Salai,
Chennai - 600 001.

3.The Secretary (Public Department)
The Secretariat, Chennai - 600 009.

4.The Tahsildar,
Office of the Tahsildar, Mylapore,
Chennai - 600 004.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the 2nd respondent dated 27.09.2021 made in OME3/16000/2019 and set aside the same and to direct the respondents to sanction and pay family pension to the petitioner under the Freedom Fighters Pension Scheme now Swantantrata Sainik Samman Pension Scheme as against the death of the Freedom Fighter Mr.D.V.George.

For Petitioner : Mr.G.Palani

For Respondents : Mr.Rajesh Vivekanandan
Asistant Solicitor General - R1
Mr.D.Ravichander
Special Government Pleader
and Mr.C.Jayaprakash
Government Advocate - R2 to R4



O R D E R

The petitioner states that her husband one Shri D.V.George was part of the Indian National Army in Burma under Netaji Subash Chandra Bose. She claims that her husband was incarcerated in Rangoon Central Jail for a period of six months by the British Government. The petitioner's husband had passed away in the year 1991 and the petitioner has been making representations thereafter, both to the Chief Minister's Cell for State pension as well as to the State seeking recommendation for the grant of Central Pension. She has enclosed with her representation, a certificate issued by the Chairman Officer, Ex.INA Azad Hind Fauj and Allied Organization, Rangoon, Burma and her claim to pension through her husband, is based solely upon this document.

2. Unfortunately for her, both the Centre and the State have issued guidelines, the Centre by way of SSSY Scheme and the State by way of State Directives requiring proof to be submitted for incarceration as primary evidence, to establish entitlement for pension. Since similarly placed petitioners/freedom fighters were unable to procure primary evidence as proof of incarceration, the guidelines also contain provision for production of secondary evidence as proof of incarceration by way of certification of the co-prisoners, to the effect that they have served jail time with the freedom fighter in question.

3. The present petitioner has been unable to procure co-prisoners' certificates, perhaps for the reason that her husband has passed away as early as in 1991 and she is unaware of the persons to contact.

4. Be that as it may, the Scheme requires proof to establish the entitlement for pension and in the absence of the same, there is no infirmity in the impugned order passed by the District Collector/R2 rejecting the petitioner's request for pension.

5. Since this Writ Petition has been pending since 2021, the State Level Screening Committee has, notwithstanding the passing of the impugned order on 27.09.2021 rejecting the petitioner's request, re-considered her request in a recent meeting convened on 16.04.2022. In that meeting as well, they have found the evidence furnished by the petitioner insufficient and inadequate and on this score, rejected the request for State Pension as well as for recommendation for Central Pension.



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6. In light of the discussion as above, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

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To

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Office of the Tahsildar, Mylapore,
Chennai - 600 004.

+1cc to Mr.G.Palani, Advocate Sr.No.29079

+1cc to Mr.R.Rajesh Vivekananthan, Advocate Sr.No.29052

+1cc to the Government Pleader Sr.No.28918

W.P.No.28008 of 2021

EV(CO)
RVM(27/05/2022)