



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 14.12.2021
PRONOUNCED ON : 03.01.2022
CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**
W.P.(MD)No.18369 of 2019

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M.Saiyedha Begum

... Petitioner

vs.

1.The State of Tamil Nadu,
represented by Deputy Secretary to the Government,
Public (Political Pension Department),
Secretariat, Chennai-9.

2.The District Collector,
Theni District.

3.The Special Deputy Collector,
(Sa.Pa.Thi), Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating with the order of the second respondent made in Na.Ka.No.2114/2017/H5, dated 17.07.2019 and quash the same as it is arbitrary and illegal and in consequence to direct the respondents to grant the freedom fighter's family pension to the petitioner from the date of death of her husband, namely, Mohammed Sheriff and to disburse the same at the earliest.

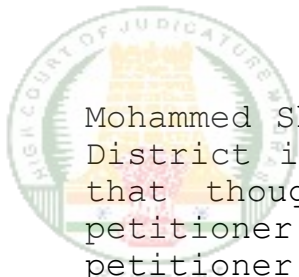
For Petitioner : Mr.R.Suriya Narayanan
For Respondents : Mr.D.Ghandiraj,
Special Government Pleader

O R D E R

This Writ Petition has been filed in the nature of Certiorarified Mandamus to call for the records of the order of the second respondent/District Collector, Theni District, dated 17.07.2019 and to quash the same and for a direction to the respondents to grant Freedom Fighters Family Pension to the petitioner from the date of death of her husband and to disburse the same.

2.In the affidavit filed in support of this Writ Petition, it had been stated that the husband of the petitioner, by name,

<https://hcservices.ecourts.gov.in/hcservices/>



Mohammed Sheriff, was incarcerated in Alipuram Camp Jail in Bellary District in Karnataka between 08.10.1943 and 11.04.1944. Claiming that though he had not sought for pension, as his widow, the petitioner was entitled to Freedom Fighters Family Pension, the petitioner had sent several representations to the respondents.

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3.The third respondent/Special Deputy Tahsildar, Sa.Pa.Thi, Theni District, had originally passed an order on 07.02.2017 refusing to grant pension to the petitioner primarily on the ground that her husband had not been granted Freedom Fighters Pension and therefore, she was not eligible to grant of such pension. That order was challenged by the petitioner in W.P.(MD)No.3407 of 2017, wherein, a learned Single Judge of this Court had relied on Rule 6 of Madras Freedom Fighters' Pension Rules, 1966, and had stated as follows:

"5.A perusal of the Freedom of the Freedom Fighters' Pension Rules 1966 shows that there is no age limit prescribed. But, the request for reconsideration made by the petitioner on 09.01.2017 was rejected by the respondents on the ground that the Freedom Fighters' Pension can be sanctioned to the wife of the freedom fighter only if the freedom fighter himself has been sanctioned pension. This reason, in my view, is not sustainable. Rule 6 of the Madras Freedom Fighters' Pension Rules, 1966, extracted above would show that the wife and minor children of the freedom fighter are entitled to pension.

6.In view of the above, the order impugned in the writ petition is set aside. The respondents are directed to consider the application for grant of freedom fighters' family pension to the petitioner subject to other conditions being satisfied. The authorities are directed to complete the process and communicate the result to the petitioner within 6 weeks from the date of receipt of a copy of this order."

4.It is thus seen that a categorical ruling had been given by a learned Single Judge of this Court that the petitioner is eligible for Freedom Fighters Family Pension, if her husband had satisfied the condition of serving in prison and other related conditions and her application cannot be rejected on the ground that her husband had not granted pension or not applied for grant of pension. The order of the learned Single Judge of this Court had not been taken on appeal and therefore, it is binding on the respondents.

5.Unfortunately, the respondents seem to take pleasure in violating the ruling of law.

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

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"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 probabalised 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.**

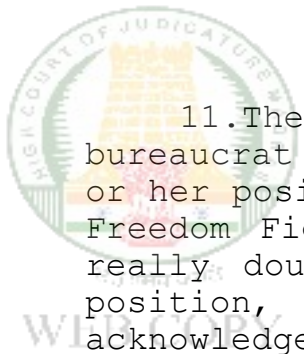
8. We have noticed with disgust that the respondent authorities have adopted a hypertechnical approach while dealing with the case of a freedom fighter and ignored the basic principles/objectives of the Scheme intended to give the benefit to the sufferers in the freedom movement....." (Emphasis supplied)

7.In the instance case, it is seen that originally, the second respondent/District Collector, Theni District, by a communication, dated 04.06.2004, had actually recommended grant of Freedom Fighters Family Pension to the wife of the deceased, in effect, to the petitioner herein. This was again confirmed by the third respondent by communication, dated 08.02.2005. It was actually issued on behalf of the second respondent/District Collector, Theni District. It is seen that subsequently, it was rejected on the basis that the husband of the petitioner had not sought for pension and therefore, the petitioner was not eligible. That reasoning had been set aside by the learned Single Judge of this Court in W.P.(MD)No.3407 of 2017, referred supra.

8.Now, by the impugned order, the second respondent had again rejected the grant of pension on the very same ground that the husband of the petitioner had not applied for grant of pension. It has to be reiterated that the learned Single Judge had rejected that very reason.

9.The second respondent/District Collector, Theni District, was called upon by order dated 29.11.2021 to file a fresh counter affidavit. Counter was not filed after that hearing date. The counter available in the records was filed in November 2019, wherein, again, the very same reason, which had been rejected in the earlier Writ Petition, was reiterated.

10.There is no age restriction to be declared as a Freedom Fighter or to be sentenced to jail for the Freedom cause. That was a clause stipulated only under the Central Government Freedom Fighters' Scheme. However, under Madras Freedom Fighters' Pension



11.The impugned order conveys no sense. It reflects deliberate bureaucrat refusal to understand that the second respondent owes his or her position only because of the sacrifices and the sufferings of Freedom Fighters, like the husband of the petitioner herein. I really doubt whether the second respondent can ever justify the position, he/she holds as on date in completely refusing to acknowledge the order of this Court and the rules of Madras Freedom Fighters' Rules 1966.

10.The impugned order is therefore set aside. The Writ Petition is allowed. A specific direction is given to the second respondent/District Collector, Theni District, to consider the representation of the petitioner seeking Freedom Fighters Family Pension for her husband in manner known to law and pass orders in the said representation within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Deputy Secretary to the Government,
The State of Tamil Nadu,
Public (Political Pension Department),
Secretariat, Chennai-9.

2.The District Collector,
Theni District.

3.The Special Deputy Collector,
(Sa.Pa.Thi), Theni District.

W.P. (MD) No.18369 of 2019
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