



WEB COPY



W.P.No.15025 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.15025 of 2018

and

W.M.P.Nos.17794 of 2018 & 654 of 2020

A.Parvathi

...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-110003.
2. The Collector of Thiruvallur,
Thiruvallur.
3. The Tahsildar of Ponneri,
Ponneri.
4. The Government of Tamil Nadu,
Represented by Additional Secretary,
Public (Political Pension) Department,
Secretariat, George Fort, Chennai.

...Respondents

(R2 to R4 impleaded, vide order dated 01.08.2019 made in WMP.No. 21528 of 2019 in W.P.No.15025 of 2018.)



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Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the record of the 1st respondent pertaining to the order dated 06.02.2018 of the 1st respondent made in F.No.52/CC/13/2017-FF/INA and to pertaining to the order dated 06.08.2014 of the 1st respondent made in F.No.45/03/2014-FF(P) in (Annexure-R2, 1.5 para) quash the same and direct the 1st respondent to provide the Central freedom fighter dependent Pension from the date of filing application 27.02.1982 along with the arrears and for belated payment 12% interest per annum.

(Prayer amended, vide order dated 05.04.2023 made in WMP.No. 9451 of 2022 in W.P.No.15025 of 2018.)

For Petitioner : Mr.V.Nandagopalan

For Respondents : Mr.B.Sudhir Kumar, SPC, for R1
: Mr.M.Alagu Gowtham, for R2 to R4

ORDER

This Writ petition has been filed seeking quashment of the orders of the 1st respondent dated 06.02.2018 made in F.No.52/CC/13/2017-FF/INA and 06.08.2014 made in F.No.45/03/2014-FF(P) in (Annexure-R2, 1.5 para) and for a consequential direction to the 1st respondent to provide the Central freedom fighter dependent Pension from the date of filing application 27.02.1982 along with the arrears and for belated payment 12% interest per annum.



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2. The case of the petitioner is that, the petitioner's Late husband namely S.Annamalai was a freedom fighter (INA), who applied for Swatantrata Sainik Samman Pension Scheme, 1980 (in short 'SSS Pension Scheme') on 27.02.1982. Upon receipt of the said application, though several correspondence have taken place in between the officials, no final order has been passed on the same, despite the subsequent representation dated 17.02.2004 made by the said Annamalai. Thereafter, the petitioner made representations dated 20.02.2013 & 03.12.2014, seeking payment of freedom fighter pension for her husband, however, as no action was initiated, the petitioner filed a Writ petition before this Court in W.P.No.39772 of 2015 and this Court, vide order dated 17.12.2015 disposed of the said Writ petition with a direction to the 1st respondent to pass orders on the representation of the petitioner dated 03.12.2014 in the light of the letter of the 3rd respondent dated 03.04.2013. Thereafter, the petitioner obtained State freedom fighter pension order on 04.10.2016. Further, pursuant to the order of this Court dated 18.12.2017 made in W.P.No.11254 of 2017, the 1st respondent had mechanically rejected the petitioner's representation dated 06.02.2017, seeking prolong pending pension along with the arrears, vide proceedings dated 06.02.2018.



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Challenging the said order of the 1st respondent and the revised Policy Guidelines for disbursement of Central Samman Pension, the petitioner has come up with this Writ petition.

3. Learned counsel for the petitioner submitted that, even as per the SSS pension Scheme which was produced by the respondents it is clear that, the person who had suffered a minimum imprisonment of six months in the mainland jails before Independence are eligible for SSS pension. In the present case, two co-prisoners namely K.P.Swamy and Vaithyalingam certified that, the petitioner's husband was a co-prisoner, who served in jail along with them and despite the said certificate issued in favour of the petitioner's husband, the petitioner's application seeking Central freedom fighter pension was rejected on the ground that, the petitioner's husband did not suffer one year imprisonment. However, the SSS pension scheme itself makes it clear that, minimum imprisonment of six months is sufficient. He further submitted that, pursuant to the direction of this Court and the letter of State Government dated 04.12.2020, the Screening Committee meeting has been conducted on 24.12.2020 and upon satisfaction of the documents submitted by the petitioner, the Screening Committee has recommended for



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the sanction of Central Freedom Fighter Pension to the petitioner and based on the said Screening Committee's report, the District Collector, vide letter dated 26.12.2020 and the State Government, vide letter dated 30.12.2020, had forwarded the state level screening committee's report. Hence, he submitted that, it would suffice, if this Court sets aside the orders of the 1st respondent dated 06.02.2018 and consequently direct the 1st respondent to provide the petitioner with Central freedom fighter dependent Pension from the date of filing of application i.e., 27.02.1982 along with the arrears and for belated payment 12% interest per annum.

4. Learned counsel appearing for the 1st respondent submitted that, the petitioner's representation was rejected mainly on the ground that, the petitioner's husband has not served the minimum suffering period of one year. He further submitted that, once State Pension is granted in favour of the petitioner, it does not mean that, the petitioner is eligible for the Central Pension as well. Further, as per the revised guidelines of SSS pension scheme / Yojana, *no pension shall be sanctioned in the name of the freedom fighter after his/her death even if his/her matter was under examination. This also entails that no life time arrears or dependent*



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pension shall be sanctioned to his/her spouse daughter after the death of freedom fighter. Hence, he prayed for dismissal of this Writ petition.

5. On the above said contentions, heard learned Government Advocate appearing for the respondents 2 to 4 and perused the materials available on record.

6. A perusal of the documents placed on record, particularly the SSS pension scheme, 1980 in which it clearly mentions the criteria for persons eligible for SSS pension and the same is quoted hereunder :-

3. WHO IS ELIGIBLE?

For the purpose of grant of Samman pension under the scheme, a freedom fighter is :-

(a) the person who had suffered a minimum imprisonment of six months in the mainland jails before Independence. However, ex-INA personnel will be eligible for pension if the imprisonment/detention suffered by them was outside India. The minimum period of actual imprisonment for eligibility of pension has been reduced to three months, in case of women and SC/ST freedom fighters from 01.08.1980.



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7. While it is the contention of the petitioner that the petitioner has satisfied the imprisonment of six months, however, it is the case of the respondents that the minimum sufferance period is one year. However, to substantiate the aforesaid contention that sufferance period is one year, no material whatsoever has been placed before this Court by the respondent. In the absence of any material, this Court has to go by the material placed by the petitioner, which prescribes the sufferance period as six months.

8. Further, it is also to be noted that the Screening Committee had forwarded its report recommending the case of the petitioner for grant of Central freedom fighter's pension and even in the said report, there is no advertance to the sufferance period of one year. Such being the case, the stand of the respondents in the absence of any material for rejecting the case of the petitioner cannot be sustained.

9. Accordingly, for the reasons aforesaid, the impugned order rejecting the case of the petitioner for freedom fighter's pension is set aside and the matter is remitted to the 1st respondent with a direction to consider the



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application/representation of the petitioner afresh in terms of the SSS pension Scheme dated 15.08.1981 and the recommendations dated 26.12.2020 and 30.12.2020 and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner.

10. With the above observations and directions, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous petitions are closed.

05.04.2023
(1/2)

skt

NCC	: Yes / No
Speaking Order	: Yes / No
Index	: Yes / No



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1. The Under Secretary to Government of India,
Ministry of Home Affairs,
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2nd Floor, NDCC-II Building,
Jai Singh Road, New Delhi-110003.
2. The Collector of Thiruvallur,
Thiruvallur.
3. The Tahsildar of Ponneri,
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4. The Government of Tamil Nadu,
Represented by Additional Secretary,
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W.M.P.No.9451 of 2022
in
W.P.No.15025 of 2018

M.DHANDAPANI., J.

The present Miscellaneous petition filed seeking to permit the petitioner to amend the prayer in the main Writ petition is ordered as prayed for.

05.04.2023
(2/2)

skt

Note: Registry is directed to carry out the necessary amendment in the cause title.