



WEB COPY

W.A.(MD) No.1912 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) No.1912 of 2021

and

C.M.P.(MD) No.8431 of 2021

The Under Secretary
The Government of India
rep.by its Ministry of Home Affairs
F.F.R.Division / South Zone Section
2nd Floor, New Delhi City Centre-II
Jai Singh Road
New Delhi-110 001

... Appellant

-vs-

1.M.Joice

2.The District Collector
Kanyakumari District
at Nagercoil

3.The Pay & Accounts Officer
Pay & Accounts Office (Pension & Misc)
Ministry of Home Affairs
2/10, Jamnaar House
New Delhi-110 011



WEB COPY

W.A.(MD) No.1912 of 2021

4.The Deputy Secretary to Government
Public (Political Pension-I) Department
Secretariat, Chennai-9

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 01.07.2021, passed in W.P.(MD) No.147 of 2021, on the file of this Court.

For Appellant : Mr.K.R.Laxman
Central Government Senior Panel Counsel

For Respondents : Mr.T.R.Subramanian for R1
Mr.T.Amjad Khan
Government Advocate for R2 & R4
No appearance for R3

J U D G M E N T

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

This writ appeal is directed against the order of the learned Single Judge, dated 01.07.2021, passed in W.P.(MD) No.147 of 2021.

2. The Ministry of Home Affairs, Government of India, is the appellant before us. The first respondent is the writ petitioner.



WEB COPY

W.A.(MD) No.1912 of 2021

3. The first respondent instituted the writ proceedings seeking a direction to the appellant herein to sanction Central Freedom Fighter Pension SSS to her based on the order, dated 10.07.2018, passed by this Court in W.P. (MD) No.12145 of 2015 and by considering her representation dated 06.11.2020.

4. The first respondent states that she is the daughter of a freedom fighter, by name, Joseph, who was granted freedom fighters' pension *vide* order dated 14.04.1983. After the demise of her father Joseph, her mother received freedom fighters' family pension and she died on 10.10.2007 leaving behind one son and two daughters. The first respondent suffers from schizophrenia. The grievance of the first respondent before the Writ Court was that she submitted all the necessary documents and informations to the authorities concerned, but they have not considered the same and therefore, she instituted the writ proceedings.

5. Learned counsel appearing for the first respondent mainly contended that the learned Single Judge considered the fact that the first



W.A.(MD) No.1912 of 2021

WEB COPY

respondent is suffering from schizophrenia and further, she is unmarried and entitled for freedom fighters' family pension.

6. Learned Central Government Senior Panel Counsel appearing for the appellant contended that the appellant is yet to take a decision. The Writ Court issued a positive direction to grant freedom fighters' family pension to the first respondent even before a decision to be taken by the appellant on the application submitted by the first respondent. Therefore, it would be suffice if the matter is remanded back to the appellant for taking a decision on merits and in accordance with law.

7. Learned Central Government Senior Panel Counsel appearing for the appellant reiterated that the first respondent is married and deserted as per the report submitted by the District Collector, Kanyakumari District at Nagercoil, *vide* letter dated 26.07.2021. The marital status of the first respondent is to be decided and therefore, the order of the learned Single Judge is to be set aside.



WEB COPY

W.A.(MD) No.1912 of 2021

8. We are of the considered opinion that freedom fighters' pension scheme is a welfare scheme extended for the benefit of the freedom fighters and their dependent legal heirs. Therefore, the right of freedom fighters' family pension need not be denied unnecessarily. However, the same is to be sanctioned only after verifying the documents and the eligibility criteria of the candidates stipulated under the scheme of freedom fighters' family pension.

9. In the present case, admittedly, the appellant has not taken any decision regarding eligibility of the first respondent to grant freedom fighters' family pension to her. The learned Central Government Senior Panel Counsel appearing for the appellant, by referring the report of the District Collector, Kanyakumari District at Nagercoil, states that the first respondent is married. However, the learned counsel for the first respondent disputed the said fact. Such disputed facts cannot be adjudicated in the writ proceedings. Therefore, the first respondent has to establish her case before the District Collector, Kanyakumari District at Nagercoil and the Ministry of Home Affairs, Government of India, for the purpose of claiming freedom fighters' family pension.



WEB COPY

W.A.(MD) No.1912 of 2021

10. In view of the facts and circumstances, the District Collector, Kanyakumari District at Nagercoil is directed to scrutinize the documents submitted by the first respondent and send a report along with necessary documents to the appellant / Ministry of Home Affairs, Government of India, within a period of four weeks from the date of receipt of a copy of this Judgment. On receipt of the report from the District Collector, the appellant / Ministry of Home Affairs, Government of India, shall consider the same and pass appropriate orders on merits and in accordance with law, within a period of eight weeks thereafter.

11. Accordingly, the order dated 01.07.2021, passed in W.P.(MD) No.147 of 2021, is set aside and the writ appeal is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S., J.]

[V.L.N., J.]

14.12.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

krk

Page 6 of 8



W.A.(MD) No.1912 of 2021

WEB COPY

To:

- 1.The Under Secretary,
Ministry of Home Affairs,
The Government of India,
F.F.R.Division / South Zone Section,
2nd Floor, New Delhi City Centre-II,
Jai Singh Road,
New Delhi-110 001.
- 2.The District Collector,
Kanyakumari District,
at Nagercoil.
- 3.The Deputy Secretary to Government,
Public (Political Pension-I) Department,
Secretariat, Chennai-9.



WEB COPY



W.A.(MD) No.1912 of 2021

S.M.SUBRAMANIAM, J.
and
V.LAKSHMINARAYANAN, J.

krk

W.A.(MD) No.1912 of 2021
and
C.M.P.(MD) No.8431 of 2021

14.12.2023