



WP (MD) No. 23231 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.23231 of 2023

Saiyedha Begum .M

... Petitioner

Vs

1.The State of Tamil Nadu,
Rep 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 is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating with order of the 2nd respondent made in



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Na.Ka.No.2114/2017/H5 dated 26.07.2023 and quash the same as it is arbitrary and illegal and in consequence to direct the respondents to grant the freedom fighters family pension to the petitioner from the date of her application on 04.06.2004 with interest and to disburse the same at the earliest.

For petitioner : Mr.R.Suriyanarayanan
For Respondents: Mr.M.Sarangan
Additional Government Pleader

ORDER

The petitioner is the wife of a freedom fighter, namely, Mohammed Sheriff, who said to have been in Jail, Alipuram Camp Jail, Bellary District, Karnataka in the year 1943, during the Quit India Movement. He was imprisoned for about six months from 08.10.1943 to 11.04.1944 along with another freedom fighter one Shanmuga Sundaram. According to this petitioner, her husband was more than 18 years at that relevant point of time. He died in the year 1985 due to sickness. The petitioner and her husband were not aware of the



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freedom fighter's pension provided by the Government and hence, the petitioner's husband failed to apply for the same during his life time. The petitioner came to know about the freedom fighter's pension only after the death of her husband in the year 1985 and applied for freedom fighter's pension in the year 2004. After conducting an enquiry, the District Collector satisfied with the same and recommended the Deputy Secretary to the Government/Public (Political Pension Department)/ first respondent to extend the benefit of freedom fighter's family pension to the petitioner in his proceedings in Na.Ka.No.47625/03/G3, dated 04.06.2004. On the instructions of the first respondent, the Special Deputy Collector conducted an enquiry by verifying the status of this petitioner, confinement of the petitioner's husband along with another freedom fighter, has made further recommendation to the first respondent on 08.02.2005.



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2. Based on the proceedings of the District Collector and the Special Deputy Collector, the first respondent has passed an order on 18.02.2005 directing the District Collector to ascertain as to whether this petitioner's husband has completed 18 years as on 15.10.1943 directed to collect the ration card of the petitioner's husband, which is of the year 1985 and to forward the same to the first respondent. Since the ration card was not traceable, a report was submitted by the Tahsildar to the first respondent on 26.08.2005 stating that the petitioner's husband died on 28.06.1982 and he was more than 18 years at the relevant period of imprisonment in the year 1942. The report was forwarded by the District Revenue Officer to the first respondent on 20.09.2005. Even thereafter, the first respondent did not pass any order. The petitioner was repeatedly making representations and finally on 09.01.2017. The first respondent has rejected the request of the petition by order dated 07.02.2017, in Na.Ka.No.2114/2017/H5 stating that the petitioner's husband has not been provided with the



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freedom fighters pension, thereby the petitioner is not entitled for the same. This order dated 07.02.2017 was challenged in WP(MD) No. 3407 of 2017 and this Court by order dated 11.12.2018 has set aside the above order and directed the respondents to consider the application for grant of freedom fighter's pension to the petitioner subject to the other conditions being satisfied and also directed the authorities to complete the process within a period of six weeks from 11.12.2018. In pursuance to the order of this Court, the second respondent sent a communication, dated 21.02.2019, called upon the petitioner to submit the relevant documents on or before 06.03.2019. Accordingly, the petitioner has produced all the required documents by order dated 25.02.2019. Despite the order of this Court, the District Collector has passed a similar order rejecting the claim of the petitioner on the ground that there is no proof of age of the petitioner's husband, by order dated 17.07.2019, which was subjected to another writ petition in WP(MD) No.18369 of 2019. That writ petition was allowed



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on 03.01.2022 in the following terms:

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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 Fighter's Scheme. However, under Madras Freedom Fighters' Pension Rules, 1966, there is no such age limit stipulation.

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 should as on date in completely refusing to acknowledge the order of this Court and rules of Madras Freedom fighters' Rules, 1966.

12. The impugned order is therefore set aside. The Writ petition is allowed. A specific direction is given to the



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second respondent/District Collector, Theni District, to consider the representation of the petitioner seeking Freedom Fighters Family Pension for her husband in the 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.

3.Only thereafter, the petitioner was recommended as eligible person for pension and by order dated 15.03.2022, she was provided with freedom fighters family pension with effect from 15.03.2022. The grievance of the petitioner is that though the petitioner is entitled for the benefit from her date of application i.e. on 04.06.2004, she was denied for the same by the order impugned in this writ petition.

4.The petitioner is now aged about 75 years. The petitioner's husband, who was a freedom fighter, without knowing the



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scheme, which has been implemented for the welfare of the freedom fighters by the Government has died. The petitioner, who lost her husband in the year 1985 and after knowing the pension provided by the Government, is fighting for this benefit from the year 2004. The District Collector after conducting an enquiry has found that this petitioner is an eligible for freedom fighters pension in the year 2004. For want of age proof, the subsequent proceedings has been delayed by the first respondent. The Tahsildar has also submitted a report in the year 2005 that there is no ration card available. At the time of petitioner's husband's death, he was 63 years and therefore, he must be more than 18 years at the time of his imprisonment during the quit India Movement. As pointed out by this Court in WP(MD)No.18369 of 2023, age cannot be a factor for deciding whether a person is entitled for freedom fighters pension or not.



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5.The main objective of the Freedom Fighters Pension

Scheme is to honour the contribution and the sacrifices of the freedom fighters to the nation, so that the freedom fighters and their dependants could lead their life with respect. Here, in the present case, the petitioner was denied for freedom fighters pension for years together. Now, she prays that from the date of her application she is entitled to receive the pension.

6.In view of the above, this writ petition is allowed. The order impugned in this writ petition in Na.Ka.No.2114/2017/H5 dated 26.07.2023 is hereby set aside. The authorities concerned shall pay the pension amount to the petitioner by calculating it from the date of application from 04.06.2004 as expeditiously as possible. No costs.

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NCC :Yes/No
Index :Yes/No
Internet:Yes
vrn



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To

- 1.The 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.



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B.PUGALENDHI, J.

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Order made in
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