



WP(MD)No.1483 of 2024

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 15.04.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD)No.1483 of 2024**

P.Soundaram

... Petitioner

vs.

- 1.The Union of India,  
Rep.by its Under Secretary,  
Ministry of Home Affairs,  
Freedom Fighter Revenue Division,  
2<sup>nd</sup> Floor, NDCC, 2<sup>nd</sup> Building,  
Jai Singh Road, New Delhi – 110 001.
- 2.The Union of India,  
Rep.by its Under Secretary (Policy),  
Ministry of Home Affairs,  
Freedom Fighter Revenue Division (FFR),  
2<sup>nd</sup> Floor, NDCC, 2<sup>nd</sup> Building,  
Jai Singh Road, New Delhi – 110 001.
- 3.The Union of India,  
Rep.by its Accounts Officer,  
Pay and Accounts Officer,  
(Pension and Miscellaneous),  
Ministry of Home Affairs,  
No.2/10, Jam Nagar House,  
New Delhi.
- 4.The Central Pension Accounting Officer,  
The Central Pension Account Office,  
The Government of India,  
Trikoort H Complex, Bhikaji Cama  
Palace (Behind Hotel),



WP(MD)No.1483 of 2024

Hyatt Regency New Delhi – 100 066.

5. The Accountant General,  
(Accountant and Entitlement and Pension),  
No.36, Anna Salai, Tynampet,  
Chennai – 600 018.

6. The State of Tamil Nadu,  
Rep.by its Deputy Secretary,  
Public (Political Pension – III)  
Department,  
St.George Fort, Secretariat,  
Chennai – 600 009.

7. The District Collector,  
Sivagangai, Sivagangai District.

... Respondents

**Prayer:** Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondent to sanction Family Freedom fighter monthly pension under Swatrantra Sainik Samman Pension Scheme 1980 to the petitioner as a widow of the deceased husband Palaniappan by authoring the respondents 1 to 5 to grant and disburse the same to her from the month of her application ie., June 2014 with admitted dearness allowances till her lifetime and thus render justice.

For Petitioner : Mr.A.Shajahan

For Respondents : Mr.K.Govindarajan,  
Deputy Solicitor General of India for R1 to R4

Mr.N.G.A.Nataraj, Government Advocate  
for R5 to R7

\* \* \*



WEB COPY



WP(MD)No.1483 of 2024

## **ORDER**

Heard both sides.

2.The petitioner seeks payment of pension under Swatrantra Sainik Samman Pension Scheme 1980. Her case is that her husband Palaniappan was a freedom fighter and that he underwent imprisonment for nine months. The petitioner's request was not considered by the Central government. Hence, this writ petition came to be filed.

3.The respondents have filed counter affidavit and the learned Deputy Solicitor General of India took me through its contents. The objections raised by the learned Deputy Solicitor General of India are as follows :

1. The petitioner ought to have independently satisfied that she is eligible to get pension under Swatrantra Sainik Samman Pension Scheme 1980. In this case, except stating that Palaniappan was granted freedom fighter pension by the State government, no other material has been placed.
2. Recommendation from the State government has not been



*WP(MD)No.1483 of 2024*

received.

WEB COP 3

3. The legal heir is not entitled to get pension if the freedom fighter was not originally granted pension by the central government.

The respondents pressed for dismissal of this writ petition.

4. I carefully considered the rival contentions and went through the materials on record. The learned counsel for the petitioner draws my attention to the order dated 05.03.2008 made in WP No.17497 of 2001. The petitioner's husband Palaniappan was the petitioner therein. The said writ petition was filed for directing the State government to admit the petitioner to the freedom fighter's pension scheme of the State of Tamil Nadu. The writ petition was allowed on 05.03.2008. The Hon'ble Judge who allowed the writ petition took note of the fact that the petitioner's husband's case was recommended by none other than the legendary freedom fighter P.Kakkan. My attention was also drawn to the decision of the Madras High Court reported in 1994 Writ L.R 137 (R.Thangavelu vs. Government of India). It was held as follows :

“.....if the State-Government grants pension to a freedom fighter, the same should be accepted by the Central Government and no further proof should be insisted upon. In other words, once either the State Government or the Central



*WP(MD)No.1483 of 2024*

Government grants pension to a particular freedom fighter, he must automatically get the other pension either under the State or under the Central Government Scheme without any further enquiry, on the claimants satisfying the guidelines, and the Government cannot reject the claim summarily that he is not a freedom fighter at all. Further, when once Tamara Patra has been granted recognising the valuable services rendered during freedom struggle, the concerned Government should automatically grant pension without any further enquiry or proof.”

5.By order dated 21.06.2023 in WP(MD)No.19194 of 2022, I had held as follows :

“The case of the writ petitioner is that her father Kaliappan served in Indian National Army (INA) under the leadership of Netaji Subhash Chandra Bose and that she should be given Freedom Fighters' Pension. The petitioner had earlier moved this Court by filing W.P.(MD)No.23228 of 2018. A learned Judge of this Court disposed of the writ petition vide Order dated 15.12.2021 in the following terms:-

“ 9.This is an unfortunate case, which should not have entered the portals of the Court at all. The father of the petitioner had forwarded an application directly to the first respondent along with the requisite enclosures claiming that he was a Freedom Fighter and had participated in the Freedom Struggle, as member of Indian Independence League at Dallah



*WP(MD)No.1483 of 2024*

Branch in Rangoon, Burma and that he was arrested by the British Army on 25.05.1945 and imprisoned in Rangoon Central Jail upto December 1945. He had also given the certificate of a co-prisoner in this regard. He had also enclosed INA Certificate of Honour issued by the Former Personal Secretary to Nethaji Subash Chandrabose. This application had been unfortunately forwarded directly to the first respondent.

10.The rules stipulates that the State Government should recommend grant of pension. The first respondent, therefore, forwarded the entire application to the second respondent to verify the details. I am deeply pained by the affidavit of the second respondent in questioning the credentials of the father of the petitioner. The petitioner had stated that the Tahsildar, Thiruverumber, had examined the genuineness of the certificates and had recommended that they are genuine in nature. But, the second respondent had taken a different stand. It is not known whether he actually signed the affidavit in the counter with knowledge of the contents or with deliberate intention to deny pension to the petitioner. I would straight away reject the contents in the counter affidavit of the second respondent.

11.The petitioner had stated that the Tahsildar, Thiruverumbur, had examined the documents filed by the petitioner. As a matter of fact, it is also seen that a notice had been issued to the petitioner to approach the second respondent with all the requisite documents.

...



WEB COPY



*WP(MD)No.1483 of 2024*

13.It is very unfortunate that the Collector, Tiruchirappalli had also acted in the very manner which had been deprecated by the Honourable Supreme Court. I had actually been stated that the Honourable Supreme Court was disgusted with such hyper technical approach.

14.I would therefore, allow the Writ Petition and direct the petitioner herein to approach the second respondent with a representation in writing enclosing all the relevant documents and the application form as originally forwarded by the father of the petitioner to the Central Government. Such a representation in writing along with requisite documents should be forwarded by the petitioner herein to the second respondent/District Collector, on or before 10.01.2022. On receipt of the same, a direction is issued to the second respondent/District Collector, Tiruchirappalli, to issue notice to the petitioner to appear in person and thereafter, bestow personal attention to the grievance of the petitioner, examine the documents and if further enquiries are required, call upon the third respondent to do such enquiries and obtain a report from the third respondent or satisfy himself or herself with a personal enquiry and take a decision in this regard on or before 10.02.2022.

14.1.The second respondent is further directed to forward the recommendations, through proper channel, through the relevant Ministry in the Government of Tamil Nadu, to the first respondent and on receipt of the same, the first respondent should pass necessary orders within a period of four weeks thereafter.



*WP(MD)No.1483 of 2024*

14.2.It is hoped that the time lines aforementioned would be kept by the petitioner, second respondent and the first respondent. If the second respondent requires further clarifications, then they may be sought in writing and obtained in person and forwarded to the first respondent to take a final decision on grant of pension to the petitioner in view of the services rendered by her father, Kaliappan, who was a prisoner in Rangoon Central Jail between 25.05.1945 and December 1995.

15.With the said observations, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.”

3. In terms of the aforesaid order, the writ petitioner submitted representation dated 05.01.2022. However, the petitioner's request was once again rejected vide Government Letter No.40345/PP-I/2018-11 dated 08.06.2022. Challenging the same, this writ petition has been filed.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

5. Counter affidavit has been filed by the second respondent and the learned Special Government Pleader took me through its contents. He submitted that the impugned order



WEB COPY



*WP(MD)No.1483 of 2024*

is a reasoned one and no case for interference has been made out. He pressed for dismissal of the writ petition.

6. I carefully considered the rival contentions and went through the materials on record.

7. The stand of the State Government is that only if the freedom fighter had availed pension, after his demise his legal heirs if eligible, can be granted pension. Once it is conceded that a destitute unmarried daughter of the freedom fighter is also eligible for Freedom Fighters' Pension, the fact that the parent did not avail pension is irrelevant. Thousands and thousands of persons fought for our freedom. But not all of them applied for pension. Many did not even bother about obtaining even the Certificate of Honour (Tamrapatra). Some of them in their later years faced economic difficulties and therefore, had to apply for pension. In this case, the specific stand of the petitioner is that towards the fag end of his life, her father applied for pension and even before it could be considered, he passed away. What is relevant is only the entitlement of the petitioner's father and his status as a freedom fighter. That he was not sanctioned or granted pension is irrelevant. The authority who passed the impugned order had thus misdirected himself in law.

8. The second reason for rejecting the petitioner's request was that she did not enclose the original documents. This reason again is unsound. The petitioner's father submitted an



*WP(MD)No.1483 of 2024*

application dated 02.08.1999 and the Government of India forwarded the same to the Government of Tamil Nadu on 01.09.1999 with a request to verify the genuineness of the claim. It appears that the papers have subsequently gone missing. The petitioner cannot be blamed for the same. The petitioner's father passed away in the year 2000. Those who had served in Indian National Army had formed a forum and the State President of the Screening Committee had issued Personal Knowledge Certificate on 05.08.2001 certifying that the petitioner's father was an INA freedom fighter. The said forum had also issued certificate to the petitioner herein as the legal heir of the deceased freedom fighter. In matters such as this, the issue has to be decided based on co-prisoner certificates. Such certificates were furnished in this case. There is no justification for negating the petitioner's claim.

9. Only two reasons have been given in the impugned letter. I find both the reasons to be unsustainable in law. The impugned communication is set aside.

10. This is second round of litigation. In the first round, a learned Judge of this Court had observed that the petitioner ought not to have been made to knock the doors of this Court. Though the learned Judge did not issue any formal direction for grant of pension, the observations and findings found in the order dated 15.12.2021 in W.P.(MD)No.23228 of 2018 were more than sufficient to nudge the Government to favourably



WEB COPY



*WP(MD)No.1483 of 2024*

consider the petitioner's claim. The petitioner's request ought not to have been rejected.

11. I therefore direct the respondents to grant Freedom Fighters' Pension to the petitioner. The petitioner had moved this Court only in the year 2018. The respondents are directed to sanction and pay pension to the petitioner with effect from 01.06.2018. The petitioner is a senior citizen. I only hope that since the direction has been given for payment of pension only from 01.06.2018, the authorities will comply with the order passed by this Court. This writ petition stands allowed accordingly....”

6.I do not find any merit in the contention that the legal heir of a freedom fighter for the first time cannot seek pension under the Central Government scheme. The question to be posed is whether the petitioner's husband was the freedom fighter or not. Once that fact is decided, then it should be held as a consequence that the petitioner/the legal heir of the deceased freedom fighter is also entitled to get pension. In this view of the matter, I direct the respondents 1 and 2 to admit the petitioner as person eligible to get monthly pension under Swatantra Sainik Samman Pension Scheme 1980 in her capacity as widow of the deceased husband Palaniappan. The petitioner will be entitled to arrears of pension from the date of filing of this writ petition. The petitioner will be entitled to



WP(MD)No.1483 of 2024

payment of monthly pension during her entire lifetime. Such disbursement shall be made by the respondents 1 and 2 within a period of ten weeks from the date of receipt of copy of this order. This writ petition is allowed. No costs.

**15.04.2024**

Index : Yes / No

Internet : Yes/ No

Skm

**To**

- 1.The Under Secretary, Union of India,  
Ministry of Home Affairs,  
Freedom Fighter Revenue Division,  
2<sup>nd</sup> Floor, NDCC, 2<sup>nd</sup> Building,  
Jai Singh Road, New Delhi – 110 001.
- 2.The Under Secretary (Policy), Union of India,  
Ministry of Home Affairs,  
Freedom Fighter Revenue Division (FFR),  
2<sup>nd</sup> Floor, NDCC, 2<sup>nd</sup> Building,  
Jai Singh Road, New Delhi – 110 001.
3. The Accounts Officer,  
The Union of India,  
Pay and Accounts Officer,  
(Pension and Miscellaneous),  
Ministry of Home Affairs,  
No.2/10, Jam Nagar House, New Delhi.
- 4.The Central Pension Accounting Officer,  
The Central Pension Account Office,  
The Government of India, Trikoort H Complex, Bhikaji Cama  
Palace (Behind Hotel), Hyatt Regency New Delhi – 100 066.



*WP(MD)No.1483 of 2024*

5. The Accountant General,  
(Accountant and Entitlement and Pension),  
No.36, Anna Salai, Tynampet,  
Chennai – 600 018.

6. The Deputy Secretary,  
Public (Political Pension – III)  
Department,  
St. George Fort, Secretariat,  
Chennai – 600 009.

7. The District Collector,  
Sivagangai, Sivagangai District.



WEB COPY



*WP(MD)No.1483 of 2024*

**G.R.SWAMINATHAN, J.**

SKM

**W.P.(MD)No.1483 of 2024**

**15.04.2024**