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W.P.No.29166 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

W.P.No.29166 of 2025

S.Selvi
D/o.Late S.Arulanand, INA
No.40A, Teachers Colony, Ambedkar Street,
Erukkancherry, Chennai-600 118.

...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 110 003.
2. Senior Accounts Officer
Pay & Account Officer (Pension and Misc) MHA,
Ground Floor, Jeevan Vihar Building, Parliament Street,
New Delhi 110011.
3. The Principal Chief Controller of Accounts,
Pay & Account Office (Pension and Misc), MHA,
Rear Block, Gound Floor, Jeevan Vihar Building,
3 Sansad Marg, New Delhi 110 001.
4. Central Pension Accounting Officer,
Trikoott II Complex, Bhikaji Cama Place,
(behind Hotel Hyatt Regency), New Delhi 110 066.
5. The Government of TN rep. by Additional Secretary,
Public (Political Pension) Department,
Secretariat, George Fort, Chennai 9.



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6. The District Collector of Chennai,
Chennai 600 001.

7. The Tahsildar of Perambur,
Perambur 600 011.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the First respondent pertaining to the order dated NIL made in file No. 45/03/2014 - FF (P) in the (Annexure - R2, 5.2 Para) and to pertaining to the order dated 03/07/2025 made in No. 56/02/Misc./2025-FF - INA (C.F. No. 3742700) and quash the same and direct the first respondent to provide the central government freedom fighter pension arrears from the date of the death of her father dated 19/06/2019 and pass.

(PRAYER AMENDED VIDE ORDER DATED 23.10.2025 MADE IN WMP.43512/2025 IN WP.29166/2025 BY VLNJ)

For Petitioner : Mr.V.Nandagopalan

For Respondents : Mr. R. Rajesh Vivekananthan,
Deputy Solicitor General of India for R1 to R4

Mr.V.Manoharan, AGP for R5 to R7



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ORDER

The petitioner seeks transfer of freedom fighter's pension under the "Swatantarta Sainik Samman Pension Scheme, 1980", from the petitioner's deceased mother, to the petitioner's account.

2. The following facts are undisputed:

The petitioner's father was one, Shri S.Arulanand. He had joined the force, which fought for the freedom of the Country from the clutches of British Colonialism. He joined the forces of the Indian National Army, which was lead by none other than Netaji Subhash Chandra Bose. On account of his passion for this Country's freedom, he was imprisoned by the British Forces. The petitioner's mother, Mrs.A.Elizabeth, was granted pension by both, the State, as well as the Central Government. She passed away on 16.02.2017.

3. During her lifetime, the petitioner's hand was given in marriage to one, Mr.Susai Arockiam. The marriage resulted in the birth of two children. Her husband passed away on 04.11.2018. On his death, she applied for pension under the aforesaid pension scheme, seeking transfer of her deceased mother's pension into her account.



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4. In a similar circumstance, a divorced daughter, who had also sought for pension from the State of Tamil Nadu, filed a writ petition in W.P. No.10344 of 2023, challenging the rejection of her request for pension by the State of Tamil Nadu. By an order dated 09.12.2024, the said writ petition was allowed with the following observations:

"22. The respondents have never, in the first instance refused to grant and extend the dependent family pension. There was an other issue, namely whether the petitioner was actually in financial trouble or not. The Revenue Inspector was directed to cause an enquiry and very unfortunately, he returned back stating that the petitioner was not available. The jurisdictional Thasildar had however filed a report. He had very clearly stated that the petitioner's medical condition is pathetic and that she is suffering with 70% to 90% of blockage in heart and is also quite aged and requires support. She requires that support not because of her individual capacity but in recognition of the sacrifices made by both parents. Her father suffered incarceration for more than 6 months. Her mother was suffered incarceration for a month. They both suffered incarceration for the cause of this country and while fighting against the British to obtain freedom in this country. There could be no better



eligible person than the petitioner herein. The impugned proceeding is therefore set aside and struck off."

5. Learned counsel for the petitioner informs that this order has now become final, as the State of Tamil Nadu has preferred an appeal, which is yet to be numbered.

6. The petitioner herein had sought for pension from the Central Government. Her request was rejected by the impugned order dated 03.07.2025. Challenging the same, she has come forward with the present writ petition.

7. This writ petition relates to the grant of pension by the Central Government. The petitioner states that, as she was dependant on her father when he was alive, and thereafter, on her mother till 2017, she has to be treated as a dependent of her parents, and be granted pension. She pleads that her husband had also passed away on 04.11.2018 and she does not have financial support from anyone else. As she was not granted pension, she is before this Court by way of writ petition.



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8. This Court entertained the writ petition on 18.08.2025.

Mr.R.Rajesh Vivekananthan, learned Deputy Solicitor General, took notice on behalf of respondents 1 to 4. Mr.V.Manoharan, learned Additional Government Pleader, took notice on behalf of respondents 5 to 7. Mr. R. Rajesh Vivekananthan has filed a detailed counter.

9. The simple plea of the Union of India is that, in terms of the pension scheme, for a daughter to be eligible as a dependent, she has to satisfy two conditions. One of which is that, she must have no independent source of income and that she must not be married.

10. Mr.R.Rajesh Vivekananthan relies upon clause 5.2.3 and 5.2.5 of the Revised Policy Guidelines issued by the Ministry of Home Affairs, in the year 2014, to the effect that widowed / divorced daughters are not entitled for Samman Pension. He pleads that there is no right to seek pension, and that as the petitioner is not covered within the scope of the scheme, she is not entitled for the benefit granted under the scheme.

11. With the leave of the Court, Mr. V.Nandagopalan amended the prayer, challenging clause 5.2.5 of the guidelines for disbursement of



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Swatantarta Sainik Samman Pension of the year 2014. With the pleadings

having been completed, I took up the writ petition for disposal.

12. Mr. V.Nandagopalan points out that, in so far as the second criterion insisted upon by Mr. R. Rajesh Vivekananthan - namely, that the dependent is in impoverished circumstances - is concerned, the issue can be dealt with by the revenue authority, once, this Court agrees that divorced/widowed daughters have to be treated on par with unmarried and dependent daughters.

13. Insofar as the entitlement of the pension to the petitioner is concerned, Mr. R. Rajesh Vivekananthan states that the Supreme Court and other High Courts have held that a widowed daughter is not entitled to maintenance. He relies upon the following Judgments:

i. State of H.P. and Another Vs. Jafli Devi reported in 1997 (5) SCC 301;

ii. Pushpaben Maganlal B. Harijan Vs. Union of India reported in 2005 Supreme (Guj) 149;

iii. Tulsi Devi Vs. Union of India and Another in C.W.P. No.1504 of 2019 dated 18.07.2019 in the High Court of Himachal Pradesh,



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Shimla;

WEB COPY *iv. Karthiyayani Janaki and Others Vs. Union of India reported in 2018 SCC Online Ker 8275;*

v. The Director of Treasuries in Karnataka and Another Vs. V. Somyashree in Civil Appeal No.5122 of 2021 dated 13.09.2021;

vi. Union of India Vs. Laxmibai and Another in Civil Appeal No.2119 of 2004 dated 03.08.2011.

14. Per contra, Mr. V.Nandagopalan brings to my notice, two judgments, which have interpreted "Swatantarta Sainik Samman Pension Scheme, 1980". The first of those Judgments are ***Khajani Devi Vs. Union of India and Others reported in 2016 SCC Online P&H 15867*** and ***Union of India Vs. Kolli Uday Kumari in Review Petition No.21 of 2022 in LPA No.476 of 2021 dated 20.01.2023***. On the basis of these Judgments, he pleads that to distinguish between unmarried dependent daughter, a divorced dependent daughter and a widowed dependent daughter, is an artificial differentiation without any reference to the purpose of pension and hence, pleads for the writ petition to be allowed.



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15. I carefully considered the submissions of both sides and have gone through the records, as well as, the Judgments cited by both the learned counsel.

16. As already stated, the petitioner's father was a freedom fighter. The only ground on which the petitioner is sought to be denied the pensionary benefits is that, she underwent a marriage and did not remain unmarried, as long as her father was alive.

17. The Counter Affidavit filed on behalf of the Union of India states that, on account of the marriage that has taken place, a lady is entitled for maintenance from her husband and not from her father and is consequently, disqualified. In my view, this does not answer the issue that has already been resolved in ***Khajani Devi's*** case.

18. In ***Khajani Devi's*** case too, the petitioner was a daughter of a freedom fighter. She was the sole surviving heir and entirely dependent on her father. She had been denied pension under similar circumstances, stating that a divorced daughter cannot be treated as a dependent on her parents. The plea that had been raised by the Union of India was initially



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accepted by a learned Single Judge, but on appeal, it was rebuffed with the following directions:

"5. The underlying object in the clause of the Scheme listing eligible dependents is that only one be granted the pension. Therefore, the authorities have to construe the admissibility of benefit from that angle. It is not the case that the daughters are excluded altogether. An unmarried daughter finds mention in the list of eligible dependents. It would, thus, be a travesty to exclude a divorced daughter. There would be no rationality to the reason that the unmarried daughter can be included in the list of eligible dependents and a divorced daughter would stand excluded, particularly when she is the sole eligible dependent and thus, qualifies for the benefit, which is concededly made admissible only to one dependent. Even otherwise, we are of the opinion that a beneficial Scheme such as the one in hand should not be fettered or constructed by a rigorous interpretation which tends to deprive the claimants of the benefit to result in virtual frustration or negation of the laudable motive of the Scheme itself. We also notice that the Ministry of Defence has issued instructions dated 14.12.2012 (on record as Annexure P8) which included a divorced daughter in the category of eligible dependents for grant of



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liberalized/special family pension beyond 25 years. We may extract the same herebelow:

"2. The above matter is considered by the Government and it has been decided in consultation with Department of P&PW that unmarried/widowed/divorced daughter shall also be eligible for grant of liberalised/special family pension beyond 25 years of age subject to fulfillment of other prescribed conditions as hitherto fore."

6. Both the liberalized/special family pension and Swatantarta Sainik Samman Pension Scheme are intended to honour the valour of the uniformed people who laid down their lives or suffered for the cause of the country. We would, thus, not place any demeaning interpretation on the Scheme to deprive the unsung heroes of the country of benefits meant to ensure a life of dignity to their dependents.

7. With the aforesaid observations, we accept the appeal and direct that the benefit of Swatantarta Sainik Samman Pension Scheme shall be admissible to the divorced daughter as well. Consequently, letter (Annexure P5) and Show Cause notice (Annexure P7), by which the pension was stalled, stand quashed."



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19. The Union of India did not agree with this view and preferred an appeal to the Supreme Court, in the case titled ***Union of India Vs Khajani Devi and Others in Special Leave Petition (Civil) Diary No(s).17706 of 2017***. By an order dated 27.09.2019, the Supreme Court dismissed the SLP by a speaking order, which is extracted hereunder:

*"We have heard learned counsel for the parties.
We are of the view that the impugned order adopts a progressive and socially constructive approach to give benefits to daughter who was divorced treating her at parity with the un-married daughter. We fully agree with this view.*

No ground for interference is made out. The special leave petition is accordingly dismissed."

20. After having lost the litigation before the Supreme Court, the Union of India filed a review before the Delhi High Court, which had taken a similar view in ***Kolli Uday Kumari's*** case.

21. A Division Bench headed by Mr.Justice Rajiv Shakdher, following the view taken in the ***Khajani Devi's*** case, dismissed the petition filed by the Union of India and held that a divorced daughter



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would have to be treated on par with an unmarried daughter, and be benefited with the Freedom Fighters Pension Scheme.

22. When these aspects were pointed out to Mr. R. Rajesh Vivekananthan, he states that the Judgments referred to by him cover the field. A careful perusal of the two Judgments that he relies upon in ***Jafli Devi's*** case and ***Laxmibai's*** case, show that they were not under the freedom fighters pension scheme, but were interpreting the compassionate employment schemes, which had been devised for the purpose of employment by the State of Himachal Pradesh and the State of Karnataka, respectively. Here is a case, where the petitioner is not seeking employment, but pension.

23. The pension is being granted by the Union of India in recognition of the hardship that had been undergone by freedom fighters during the independence movement. To compare such hardship with compassionate appointment, in my view, would not be appropriate.

24. Hence, I am of the view that these two judgments in ***Jafli Devi's*** case and ***Laxmibai's*** case do not come to the rescue of the Union



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of India. In so far as the Judgment in ***Tulsi Devi's*** case and ***Karthiyayani Janaki's*** case referred to above are concerned, both the Judgments have not taken into consideration the view of the Supreme Court in ***Khajani Devi's*** case extracted above.

25. It was not a case where the SLP had been dismissed without reasons. The Supreme Court has categorically held that, the view taken by the Punjab and Haryana High Court is a progressive and socially constructive approach, which gives benefits to the divorced daughters, widowed daughters and has treated them on par with unmarried daughters.

26. When the Supreme Court has spoken, Judicial discipline requires that I adopt the same view and not attempt to distinguish the same, as sought to be done by the learned Deputy Solicitor General. Since, the view of ***Khajani Devi's*** case has been approved by the Supreme Court, and as the circumstances in that case are similar to the case on hand, I am of the view that the writ petition should succeed. Accordingly, the writ petition is allowed and the impugned order is quashed.



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27. The petitioner is entitled to pension from the date of her application, i.e., from 09.06.2025. The respondents are granted eight weeks time to do the needful.

28. The respondents shall forward the papers to the State of Tamil Nadu forthwith. The State of Tamil Nadu shall cause such enquiry as is necessary under law to find out the financial circumstances of the petitioner. It shall submit a report as to whether the petitioner is in impoverished circumstances and whether, she was dependent on her parents during their lifetime, within a period of four weeks thereafter. On receipt of the report from the State of Tamil Nadu, the Central Government shall pass appropriate orders within a period of four months from the date of receipt of the said report. No costs.

06.11.2025

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
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V.LAKSHMINARAYANAN,J.

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To

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Ministry of Home Affairs,
Freedom Fighters Divisions, 2nd Floor, NDCC II
Building, Jai Singh Road, New Delhi 110 003.

2. Senior Accounts Officer
Pay & Account Officer (Pension and Misc) MHA,
Ground Floor, Jeevan Vihar Building, Parliament Street,
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