

W.A.(MD)No.2603 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.02.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.A(MD)No.2603 of 2024
and
C.M.P.(MD)No.18199 of 2024**

- 1.The Union of India,
Represented by its Under Secretary,
Ministry of Home Affairs,
Freedom of Fighter Revenue Division,
2nd Floor, NDCC 2nd Building,
Jai Singh Road, New Delhi-110 001.
- 2.The Union of India,
Represented by its Under Secretary (Policy),
Ministry of Home Affairs,
Freedom of Fighter Revenue Division (FRR),
2nd Floor, NDCC 2nd Building,
Jai Singh Road, New Delhi-110 001.
- 3.The Union of India,
Represented by its Accounts Officer,
Pay and Accounts Officer,
(Pension and Miscellaneous),
Ministry of Home Affairs,
No.2/10, Jam Nagar House,
New Delhi.



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4.The Central Pension Accounting Officer,
The Central Pension Account,
The Government of India,
Trikott H-Complex,
Bhikaji Cama Palace (Behind Hotel),
Hyatt Regency, New Delhi-100 066.

... Appellants

Vs.

1.P.Soundaram

2.The Accounts General,
(Accounts and Entitlement and Pension),
No.36, Anna Salai, Tynampet,
Chennai 600 018.

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

4.The District Collector,
Sivagangai, Sivagangai District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.1483 of 2024, dated 15.04.2024.

For Appellants	:Mr.K.Govindrajan Deputy Solicitor of Government of India
For R1	:Mr.A.Shajahan
For R2 to R4	:M/s.D.Farjana Ghoushia Special Government Pleader



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JUDGMENT

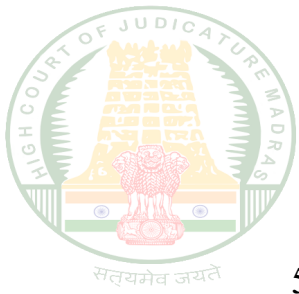
(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

The present writ appeal is preferred by the respondents in the writ petition against the order, dated 15.04.2024, passed in W.P.(MD)No.1483 of 2024.

2. The writ petition was filed for issuance of a Writ of Mandamus, directing the 1st respondent to sanction freedom fight monthly family pension under Swatantrata Sainik Samman Pension Scheme, 1980 to the petitioner.

3. The brief facts as stated in the writ petition are that the petitioner's husband namely, Palaniappan was a freedom fighter and he underwent imprisonment for 9 months. The petitioner's request to grant family pension under the Swatantrata Sainik Samman Pension Scheme, 1980, was not considered by the Central Government. Hence, she filed the writ petition.

4. The respondents filed a counter affidavit in the writ petition stating that the legal heir is not entitled to get pension, if the freedom fighter was not originally granted pension by the Central Government.



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5. The Writ Court had allowed the writ petition by relying on the earlier order passed in W.P.No.17497 of 2001, dated 05.03.2008. The said writ petition was filed by the petitioner's husband namely, Palaniappan, which was filed against the State Government for granting pension. In the said writ petition, the Central Government was not a party. The Learned Single Judge has elaborately considered the case of the freedom fighter and directed the appropriate authorities to grant family pension. Thereafter, the State Government has granted pension.

6. The contention of the petitioner is that when the petitioner's husband was alive, during 1997, he had submitted a representation to the Central Government and to the State Government. The State, vide order, dated 20.03.1998, has rejected the claim of the petitioner's husband stating that the certificate issued is general in nature and it is not a certificate issued by a co-prisoner. But it is seen that the Writ Court has declined the contention of the respondents and thereafter, directed the respondents / State Government to grant pension.

7. As far as the representation submitted to the Central Government is concerned, the same was not considered by the Central Government. If it is so, the petitioner's husband ought to have filed a separate writ petition by arraying the



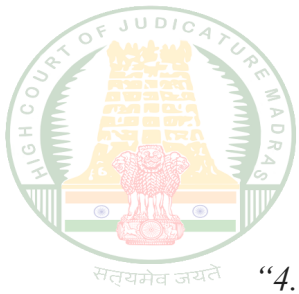
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Central Government as respondents. The petitioner's husband has not processed the same. Even if it is taken that the representation was submitted by the petitioner's husband but there is no order for sanctioning the said pension for the original freedom fighter, then the spouse also is not entitled to family pension. For which the appellants had relied on the guidelines issued in No.45/03/2014-FF(P) Ministry of Home Affairs FFR Division dated 06.08.2014 for disbursement of “Central Sammon Pension” which has to be followed by authorized Public Sector Banks. Under clause 1.5 it is stated as under:

“1.5. Sanction of pension after the death of Freedom Fighter: 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 lifetime arrears or dependent pension shall be sanctioned to his / her spouse / daughter after the death of the freedom fighter”

8. The Learned Deputy Solicitor of Government of India appearing for the appellants further relied on another judgment rendered by the Hon'ble Division Bench passed in W.A(MD)No.1233 of 2021, dated 16.06.2021, wherein it is held when the freedom fighter did not pursue the matter further and allowed to lapse, then the legal heirs' representation cannot be considered. The relevant portion of the judgment is extracted hereunder:



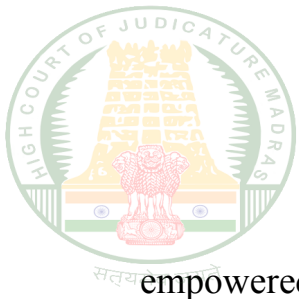
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“4. Admittedly, the appellant's husband did not pursue the matter further and allowed to lapse. On 05.12.2009, the appellant's husband died, leaving behind the appellant and her son Thiru. Ramkumar, as the legal heirs. On the date of demise of the appellant's husband, the appellant was 79 years of age and her son was 56 years of age and he is a married person. Thereafter, the appellant had sent a representation in the year 2018, stating that the representation has not been considered and filed the writ petition.”

9. The Hon'ble Supreme Court has elaborately considered the Swatantrata Sainik Samman Pension Scheme, 1980, in the case of ***Jagdamba Devi Vs Union of India and others*** reported in ***(2017) 3 SCC 688***, wherein it is held if it is coming within the purview of the scheme then only pension can be sanctioned.

10. In the present case, even though the application was submitted by the petitioner's husband as early as 1997 who is freedom fighter, at the most it can be stated that the petition was under examination. There was no sanction order. The scheme specifically states even if the representation is under examination and in the meanwhile the freedom fighter has died, the application would be automatically lapsed and the spouse of the freedom fighter is not entitled to any pension or arrears of pension. Another coordinate Bench also upheld the same. By invoking clause 1.5 of the guidelines, the appellants herein / respondents are



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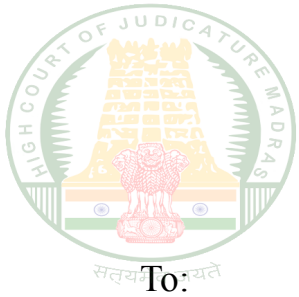
empowered to reject and they have rightly rejected. Therefore, this Court is of the considered opinion that based on the scheme as well as settled proposition by the Courts, the 1st respondent herein / writ petitioner is not entitled to freedom fighter family pension from the Central Government. Moreover, it is seen that the 1st respondent herein / writ petitioner is already getting freedom fighter pension from the State Government. Therefore, from any angle the petitioner is not entitled to. The Learned Single Judge has not considered the scheme as well as the judgment rendered by the Hon'ble Supreme Court referred supra.

11. Therefore, the impugned order is set aside and the writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B., J.] [S.S.Y., J.]
25.02.2025

Index : Yes / No

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- 1.The Accounts General,
(Accounts and Entitlement and Pension),
No.36, Anna Salai, Tynampet,
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- 2.The Deputy Secretary,
Public (Political Pension III) Department,
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