

(1991) 12 MAD CK 0003
In the Madras High Court
Case No : Writ Petition No. 10036 of 1991

Buviseshamuthu	Vs	APPELLANT
State of Tamil Nadu		RESPONDENT

Date of Decision : 04-12-1991

Acts Referred:

Citation : (1991) 12 MAD CK 0003

Hon'ble Judges : Bakthavatsalam, J

Bench : Single Bench

Advocate : N. Sundaresan, for the Appellant; P. Gunaraj, Additional Government Pleader, for the Respondent

Judgement

Bakthavatsalam, J.—The petitioner challenges an order of the respondent dated 14.9.1990 rejecting his request for the grant of State

Freedom Fighters Pension on the ground that the All India I.N.A. certificate produced by him is not acceptable as valid documentary evidence.

The petitioner seems to have joined the Indian National Army (in short I.N.A.) in the year 1943 and he was arrested by British Army in the year

1945 and he was kept in Rangoon Central Jail from May 1945 to February 1946 and later on he was released. Consequent upon the relaxation in

maximum ceiling of income for freedom fighters" pension by the State Government his petitioner applied to the District Collector of Tirunelveli on

6.5.1983 praying for the sanction of the pension under Tamil Nadu State Government Freedom Fighters Pension Scheme. Since there was no

reply, the petitioner renewed his application and addressed a letter to the Governor of Tamil Nadu. The petitioner was informed by a letter dated

4.5.1987 by the Secretary to the Governor that his request could not be considered since his claim of service on I.N.A. has not been established

beyond doubt. It is also stated in the affidavit that he produced a certificate dated 16.5.1986 to prove that he has served in I.N.A. issued by one

Capt. S.S. Yadava who was the Joint Secretary of All India I.N.A. on 14.9.1990. The impugned communication has been received by the

petitioner which is challenged before me.

2. Notice of motion has been ordered by me on 24.7.1991.

3. Mr. P. Gunaraj, learned Additional Government Pleader appears for the respondent.

4. Mr. N. Sundaresan, the Learned Counsel for the petitioner contends that the rejection of petitioner's claim for pension under the guise of non-

production of valid documents is violative of principles of natural justice and that when the Central Government had sanctioned pension to the

petitioner, considering his claim, the denial of the pension by the State Government is unjust, unfair and irrational. The Learned Counsel points out

that the grant of pension by both the Governments of Central and State has the common basis, and there cannot be a different yardstick in the

matter of identification of beneficiaries of the scheme. I have considered the arguments of N. Sundaresan, the Learned Counsel for the petitioner

and of Mr. P. Gunaraj, the Learned Additional Government Pleader, who opposed the writ petition on the ground that no valid certificate has been

produced by the petitioner and that the writ petitioner is not entitled to pension under State Government Scheme. A careful reading of the

impugned order clearly shows that there is absolutely no application of mind on the part of the respondent herein. The Freedom Fighters' Pension

Scheme has been formulated with a view to acknowledge the services rendered by freedom fighters to the country and to compensate the services

of the freedom fighters who have suffered in one way or other for the sake of the country. The respondent herein has not understood the spirit

behind this pension scheme and has rejected the application on a ground which is totally erroneous. Kanakaraj, J. had an occasion to consider this

issue in W.P. No. 17606/1990 (C. Gabriel v. The Government of India, rep. by its Secretary, Ministry of Home Affairs Freedom Fighter Division

New Delhi and another 1991 Writ Law Reporter 49 and has held that the Government has to look into the over all aspect of the claim and not to

discredit in such a manner as to deny the claim of the pension of a freedom

fighter. As rightly pointed out by the Learned Counsel for the petitioner, in this case, the Central Government has considered the claim of the petitioner for freedom fighters' pension and sanctioned the same. In such a situation. I do not see how the State Government can say that he is not a freedom fighter and he is not entitled to get freedom fighters' Pension under the State Scheme. In my view, if a stand is taken by the respondent that the petitioner herein is not a freedom fighter, it is highly irrational and arbitrary. Surely, there cannot be a different yardstick to identify the beneficiary, i.e., the freedom Fighter in this case. Once a person is accepted as a freedom fighter by the Central Government, I do not think the State Government can take a different stand and say that he is not a freedom fighter. A person cannot be treated in a different way for the purpose of getting benefits under the State Scheme, when he has been already acclaimed as a freedom fighter under the Central Government scheme. In view of that, the impugned order is set aside and the respondent is hereby directed to consider the application of the petitioner in the proper perspective taking note of the dicta laid down by Kanakaraj, J. in the above mentioned case and pass appropriate orders on the application of the petitioner, on merits and in accordance with law on or before 15.2.1992. The writ petition is ordered accordingly. No costs.