
(1998) 10 KL CK 0055
In the High Court Of Kerala
Case No : O.P. No. 10501/1997A

C. Ammini Amma

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 29-10-1998

Acts Referred:

Citation : (1998) 10 KL CK 0055

Hon'ble Judges : C.S. Rajan, J.

Bench : Single Bench

Final Decision : Allowed

Judgement

C.S. Rajan, J.—The Petitioner is the widow of late Thoppil Bhaskaran Pillai, popularly known as Thoppil Bhasya, a well-known freedom fighter, political sufferer, political leader and eminent dramatist. Her application for getting freedom fighters pension from the Central Government was turned down by the first Respondent. The Petitioner has produced Exhibits P-1 to P-9 to prove the claim of the Petitioner for getting freedom fighters pension due to the Petitioner's late husband. Exhibit P-1 is the excerpts of the speech made by the then Speaker Sri. P.P. Thankachan on a reference made after the death of the Petitioner's husband who was a Member of the Legislative Assembly of the erstwhile Travancore-Cochin State and later in the Kerala State. Exhibit P-1 refers to the role of the Petitioner's husband as a freedom fighter who took part actively in the Freedom Struggle in the erstwhile Travancore State. Exhibit P-2 is a letter addressed to the Petitioner from the District Collector, Alleppey informing her that the "Thamrapatbra" awarded to her late husband is available in the Collectorate and she was requested to receive the same. Exhibit P-3 is an order of the District Collector, Alleppey granting the freedom fighters pension to the Petitioner, which was due to the Petitioner's husband. Exhibit P-4 is a certificate of suffering by absconding internment and externment signed by one V.K. Karunakaran, a prominent freedom fighter and an authorised certifier which proves the underground suffering of the Petitioner's husband. Exhibit P-5 is

another certificate by Sri. P.A. Solomon, who was a Member of Parliament. Exhibit P-6 is a letter written by the then Chief Minister of Kerala to the then Home Minister in the Central Government strongly recommending the payment of freedom fighters pension to the Petitioner. Exhibit P-8 is a certificate issued by the then Chief Judicial Magistrate explaining the inability to issue a certified copy of the order of arrest warrant issued against the Petitioner's husband in connection with C.C. 9 of 1942 on the ground that the relevant registers are not available in the Court at present. Exhibit P-9 is another letter of the then Industry Minister (who earlier issued Exhibit P-6 while he was the Chief Minister of Kerala) informing the Petitioner that steps are being taken to grant the freedom fighters pension to the Petitioner.

2. In spite of these efforts made by the Petitioner, by Exhibit P-7 the first Respondent informed the Petitioner that the request could not be acceded to since the Petitioner had not produced any evidence in support of the claim. By Exhibit P-10 the Petitioner was informed that the request was declined since the Petitioner had not submitted documentary evidence from official records in support of the Petitioner's husband's underground suffering from 10th August 1942 to 14th February 1944. Exhibits P-7 and P-10 are under challenge in this Original Petition.

3. A statement has been filed on behalf of the first Respondent. In paragraph 5 of the statement it has been stated that to become eligible for Central Freedom Fighters pension the applicant has to produce the following documents:

1. State Government Certificate on the basis of records; and
2. In the absence of the Certificate mentioned above, a non-availability of records certificate (NARC) from the State Government.

I think Exhibit P-2 letter of the District Collector requesting the Petitioner to accept the ?Thamrapathra? due to the Petitioner's late husband and Exhibit P-3 by which the District Collector granted the freedom fighters pension to the petitioner after the death of the petitioner's husband will amply prove that the Petitioner's husband was a freedom fighter. In this connection it must be pointed out that the ?Thamrapathra? has been awarded not by State Government, but by the Central Government. Perhaps Exhibits P-7 and P-10 have been issued by the Central Government without knowing the above basic fact. Further, the averments in the statement of the first Respondent also have been made without knowing the real facts regarding the award of ?Thamrapathra?.

4. Learned Counsel for the Petitioner also brought to my notice two decisions of the Supreme Court dealing with the granting of freedom fighters pension. In the ruling reported in *Mukund Lal Bhandari and others Vs. Union of India and others*, the Supreme Court observed as follows:

In fact, the Government, if it is possible for them to do so, should find out the freedom fighters or their dependents and approach them with the pension

instead of requiring them to make applications for the same. That would be the true spirit of working out such Schemes. * * * * The object was to honour and where it was necessary, also to mitigate the sufferings of those who had given their all for the country in the hour of its need. In fact many of those who do not have sufficient income to maintain themselves refuse to take benefit of it, since they consider it as an affront to the sense of patriotism with which they plunged in the freedom struggle. The spirit of the scheme being both to assist and honour the needy and acknowledge the valuable sacrifices made, it would be contrary to its spirit to convert it into some kind of a programme of compensation. Again in the ruling reported in *R. Narayanan Vs. Union of India* and another, the Supreme Court observed as follows:

There is neither justice nor grace in the Respondent's putting forth such Objections. No one can really expect official records to have been preserved for a period of 40 years to prove the treatment given to the Petitioner for the injuries sustained by him during the freedom struggle. Hence the objection relating to non-production of official records of the relevant period by the Appellant to prove the sustainment of injury by him deserves outright rejection as well as outright condemnation. 5. Considering all the aspects of the matter in the light of the pronouncements of the Supreme Court quoted above I have no hesitation to hold that the attitude of the Central Government in this respect is unsustainable. Therefore, I quash Exhibits P-7 and P-10. The first Respondent is directed to grant freedom fighters pension which was due to the Petitioner's late husband. Orders in this respect must be passed within two months from the date of receipt of a copy of this judgment.

Original Petition is allowed as stated above.

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