

(2003) 10 MAD CK 0015
In the Madras High Court
Case No : Writ Petition No. 41347 of 2002

K. Ramasami Chettiar

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 13-10-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 10 MAD CK 0015

Hon'ble Judges : A.K. Rajan, J

Bench : Single Bench

Advocate : Vanathi Srinivasan, for the Appellant; R. Vijayakumar, G.A., for the Respondent

Judgement

A.K. Rajan, J.—The petitioner has filed the above writ petition praying for a writ of Certiorarified Mandamus to quash the order of the first

respondent in letter No. 21366/A03/2001-7 dated 27.03.2001 and to direct the first respondent to grant Freedom Fighters pension with arrears

to the petitioner as per the recommendation made by the District Collector, Coimbatore in e/f/xs/2-46548-97 dated 18.2.1999.

2. The facts that are necessary for the disposal of the writ petition are as follows:

The petitioner as a Freedom Fighter, participated in the ""Quit India Movement"" in 1942 and he was arrested and imprisoned in the Coimbatore

Central Prison from 20.08.1942 to 15.03.1943, for a period of more than six months. Pursuant to the notification made by the Governments both

Central and State, with regard to pension to the freedom fighters, the petitioner also made an application. The petitioner applied to the jail authority

on 5.8.1996 seeking for the certificate that he was so imprisoned but the Jail Superintendent, Coimbatore by a letter dated 5.8.1986 replied that

records are not available as the records were already destroyed as per the Jail Manual. The petitioner, therefore, could not produce the certificate

for his confinement in the prison. Thereafter, the petitioner made an application to the State Government for sanctioning the Freedom Fighters

Pension dated 02.09.1986 through the District Collector, Coimbatore; the petitioner was informed by the State Government by letter No.

98859A/86-2 dated 29.10.1986 that his application has been received by the State Government. In spite of several representations, the pension

was not paid to him. The State Government informed that his application will be examined in the District committee Meeting to be held on

29.08.1997 and the petitioner also appeared before the District Committee and produced all the certificates which were in his possession. The

petitioner obtained certificates from other co-prisoners to the effect that the petitioner was imprisoned in Coimbatore Jail during the said period

and the District Collector also recommended to the Government to grant the pension to the petitioner by his proceedings dated 18.02.1999. But in

spite of that, the authorities rejected the claim of the petitioner and they did not pass any order for granting pension. The petitioner filed W.P. No.

18424 of 2000 seeking a writ of Mandamus, and this Court by an order dated 01.11.2000 directed the appropriate authority to consider the

entitlement of the petitioner for such pension and pass orders. Thereafter, the petitioner received a letter from the first respondent that he must

produce a certificate from either of the two persons approved by the Government to issue such certificates and the persons approved for the same

has been informed already by letter dated 10.06.1999. The petitioner searched for those two persons but he could not. Then he wrote a letter to

the Deputy Secretary to Government stating that he is unable to find either of those persons. The petitioner got certificates from two other persons

who are receiving Freedom Fighters Pension from the Central Government and who were in Coimbatore jail during the same period and sent it

along with the application. But that was rejected by the Deputy Secretary on 05.11.2001 on the ground that the persons who gave the certificate

were not recognised or authorised to issue such certificate in so far as the Coimbatore District is concerned. Thereafter, the petitioner wrote a

letter to the District Collector, Coimbatore on 20.03.2002 stating that the two persons authorised to issue the certificate were not found and

sought to give the address and particulars of those two persons. The District Collector in his reply stated that the addresses of Tvl. O. Mariappan

and Vadivelu were not available in that office. By letter dated 19.07.2002, the Deputy Secretary to Government informed the petitioner that the

persons who were authorised to issue certificates for Coimbatore District were never imprisoned in Coimbatore Central prison. But they were sent

to Bellary Central Prison. Therefore, the approved and recognised persons for Coimbatore viz. M/s. Sengaliappan and P.S. Subramaniam were in

Bellary Central prison during for the period from 17.05.1943 to 12.02.1946 and since the petitioner claims that he was in Coimbatore Central

Prison from 20.08.1942 to 15.03.1943, those approved persons cannot give co-prisoner certificate to the petitioner. Therefore, the petitioner

must get certificates from either of approved persons for the neighbouring Salem or Erode District, namely, M.K. Vadivelu and K. Mariappan.

Unless such certificates are produced the petitioner can not get pension.

3. The petitioner is of 81 years old and he has stated in his affidavit filed in support of the writ petition that he was imprisoned in the Coimbatore

Central Prison for the period from 20.08.1942 to 15.03.1943, when he participated in the "Quit India Movement" in 1942, and to that effect he

has produced certificates from the two persons who are receiving pension from the Central Government; (viz.) M/s. M.K. Venkatasamy and S.V.

Krishnan. In their certificates they have stated that they suffered imprisonment for more than one year during the Freedom Struggle and were

lodged in Coimbatore Central Prison, and in Bellary Central Jail, from 5.7.1941 to 13.2.1942, 30.08.1942 to 15.05.1943 and 21.12.1942 to

14.09.1944, respectively. They have certified that the petitioner was also in Central Prison Coimbatore, imprisoned for participating 1942 August

Revolt movement and was in prison from 20.08.1942 to 15.03.1943. Considering the fact that the two persons who have been authorised to give

certificate for the said purpose in Coimbatore district were in Bellary jail and hence they cannot give the certificate. The authorities have asked the

petitioner to get certificate either from M.K. Vadivel or K. Mariappan, who are the approved persons to given certificate for the neighbouring

district of Salem and Erode, and even their addresses have not been furnished to the petitioner. In the said circumstance, the petitioner cannot get

certificate from any one of the two persons.

4. The District Collector in his letter dated 18.02.1999 has stated that the case of the petitioner was considered by the District Committee. The

collector after verifying all the documents has recommended that the certificate produced by the petitioner can be accepted. Under the

circumstances, it is not known as to why the first respondent refused to accept the certificates issued by the persons who were both in Coimbatore

and Bellary Central Prisons.

5. Considering the above circumstances and the fact that the petitioner is 82 years old, there will be a direction to the respondents to pass

appropriate orders accepting the certificate produced by the petitioner the certificate issued by S.V. Krishnan and M.K. Venkatesamy. within a

period of two weeks from the date of receipt of the copy this order. The petitioner is at liberty to approach this Court for any appropriate relief.

The writ petition is disposed with the above observation.