
(1999) 03 MAD CK 0052

In the Madras High Court

Case No : Writ Petition No. 15471 of 1994 and WMP No. 23416 of 1994

K.S. Velusamy

APPELLANT

Vs

The Government of India and Another

RESPONDENT

Date of Decision : 26-03-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2000 Mad 42

Hon'ble Judges : P. Sathasivam, J

Bench : Single Bench

Advocate : N. Paul Vasanthakumar, for the Appellant; T.K. Sampath, Addl. Central Govt. Counsel (for No. 1) and S. Gopinathan, Government Advocate (for No. 2), for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—Aggrieved by the order of the first respondent dated 16-5-1994 petitioner has filed the above writ petition to quash the

same and for direction to the first respondent to revive the Sutantara Sainik Samman Pension to him from January, 1974 onwards with 18 per cent

interest.

2. It is seen from the affidavit filed by the petitioner that he had participated in Quit India Movement during 1942. He suffered imprisonment for a

period of six months along with other freedom fighters and he was also imprisoned at Madurai Central Jail along with Mr. V. Muthu, Ex. M.L.A.

who was in the same Jail at that time. On the application of the petitioner he was sanctioned pension by the first respondent under the Scheme from

November, 1973. All of a sudden without any notice his pension was stopped. He made several representations. It is further stated that, totally the

first respondent sanctioned pension to 54 freedom fighters in their order dated 23-11-1976 and out of 54 persons, 19 persons filed writ petitions

197 to 512 of 1978 etc., batch and this Court by 30-1 -1979 allowed all the writ petitions and granted liberty to the 1st respondent to issue show-

cause notice before taking further steps. First respondent did not issue any show-cause notice and all the above said petitioners are receiving

pension till date. After disposal of the said writ petitions, petitioner made a representation since he has not received any reply he has filed W.P.

No. 10552/89 before this Court. By order dated 22-12-1993 this Court directed the first respondent to consider and dispose of the writ petition

in the light of the decision reported in R. Thangavelu Vs. The Government of India and Another, . It is further stated that in spite of direction, by the

impugned order first respondent has rejected the claim of the petitioner, hence the writ petition.

3. The contesting first respondent has not chosen to file counter affidavit.

4. Heard, the learned counsel for the petitioner as well as respondents.

5. While rejecting the claim of the petitioner first respondent has assigned the following three reasons :--

(a) The co-prisoner certifier Shri V. Muthu. Ex. M.L.A. has been blacklisted as has issued certificates to freedom fighters indiscriminately. As

such his certificate is not acceptable. -

(b) According to the Govt. of Tamil Nadu's report Xerox copy of the exhibits of Jail records of Central Jail, Madurai furnished by you has been

issued in 1981 without reference to basic records and hence it is not acceptable.

(c) The certificate given by Shri R. Kasinatha Durai. Ex. MP is not co-prisoner certificate.

Even though the first respondent has assigned three reasons, the second reason viz. that xerox, copies of Jail records of Central Jail, Madurai had

been sent without any basic records, it is not possible for person like petitioner to send for the basic records. Regarding reasons 1 and 3, though

according to the first respondent the certificate issued by them are not acceptable, it is stated by the learned counsel for the petitioner that in

recognition of his activities for freedom movement the second respondent-Government of Tamil Nadu have granted freedom fighters pension by

order No. 10110 dated 29-7-1981. The said order finds place at page 4 of the

typed set. In this regard it is relevant to refer the decision of the Division Bench reported in R. Thangavelu v. Government of India, 1994 WLR 137. Their Lordships in the Division Bench after considering various schemes of the Government of India and the State Government formulated certain guidelines. In para 43 of the said judgment it is stated,,Equally, when once the Central Government grants the pension after satisfying themselves about the fulfilment of the conditions stipulated in the scheme, it will not be fair for the State Government to reject the claim of the State Pension. Similarly, if the State Government grants permission to a freedom fighter, the same should be accepted by the Central Government and no further proof should be insisted upon.

In other words, once either the State Government or the Central Government grants pension to a particular freedom fighter, he must automatically get the other pension either under the State or under the Central Government Scheme without any further enquiry. On the claimants satisfying the guidelines, and the Government cannot reject the claim summarily that he is not a freedom fighter at all.....

In the light of the pronouncement of the Division Bench inasmuch as the petitioner was granted State Pension as referred above even from 29-7-1991, the first respondent is not justified in passing the impugned order rejecting the claim of the petitioner for Central Freedom Fighters Pension.

Without going into the other aspects inasmuch as the petitioner is getting pension from State Government, in the light of the above said pronouncement the impugned order is set aside and the matter remitted to the first respondent for fresh disposal. The first respondent is hereby directed to reconsider and pass orders within a period of four months from the date of receipt of a copy of this order. First respondent is also directed to consider the claim of the petitioner with reference to the order of the 2nd respondent dated 29-7-1981 granting State Freedom Fighters Pension as well as the guidelines made by the Division Bench in R. Thangavelu v. Government of India, 1994 WLR 137.

6. Writ petition is allowed to the extent mentioned above, No costs. Consequently, connected WMP, is closed.