
(2009) 12 MAD CK 0011
In the Madras High Court
Case No : W.A. (MD) . No. 592 of 2009

T. Mahadevan

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 03-12-2009

Acts Referred:

Tamil Nadu Payment of Pension to Tamil Scholars and Miscellaneous Provisions Rules, 1984 — Rule 2, 5, 5(2)
Tamil Nadu Payment of Pensions to Tamil Scholars and Miscellaneous Provisions Act, 1983 — Section 2, 3, 3(2), 4, 4(1)

Citation : (2009) 12 MAD CK 0011

Hon'ble Judges : S. Nagamuthu, J;D. Murugesan, J

Bench : Division Bench

Advocate : K.P.S. Palanivel Rajan, for the Appellant; D. Sasikurnar Government, for the Respondent

Final Decision : Dismissed

Judgement

S. Nagamuthu, J.—The Appellant claims that he is eligible for pension under the ""Tamil Nadu Payment of Pension to Tamil Scholars and

Miscellaneous Provisions Act, 1983"", [hereinafter referred to as ""the Act""]. He further claims that he is a person, who has exhibited conspicuous

courage and nobility in his enthusiasm for Tamil Language and in his zeal to preserve the growth of Tamil Language. In this regard, he submitted an

application to the Government on 07.09.1990. According to him, he participated in Anti Hindi Agitation during the year 1965, for that, he was

arrested by the police and detained in prison for one day. Such detention in prison for one day, according to him, proves his eligibility for pension

under the Act.

2. He further states that on holding enquiry, the District Collector, by his Letter

No. 42036/A6/98, dated 14.10.1999, reported to the Government

that the Appellant was detained in prison for one day, viz., on 13.02.1965 for his participation in the said agitation. Despite the said report,

according to the Appellant, his application has not been considered and no order has been passed. In those circumstances, the Appellant filed a

Writ Petition in W.P.(MD). No. 2046 of 2005 seeking for a Writ of Mandamus directing the Respondents 1 and 2 to grant pension under the said

Act.

3. In the counter filed by the Respondents before the learned Single Judge, it was contended, inter alia, that as per Rule 5(2) of the Tamil Nadu

Payment of Pension a to Tamil Scholars and Miscellaneous Provisions Rules, 1984, [hereinafter referred to as ""the Rules""], a High Level

Committee was constituted in G.O. Ms. No. 172, Tamil Development Culture Department, dated 27.08.1996, under the Chairmanship of the

Hon"ble Minister for Tamil Official Language and Culture and the said Committee decided during its meeting held on 10.06.1998 that only those

who were convicted and imprisoned in various jails for more man 14 days and above shall be considered for sanction of pension under the

Scheme. Insofar as the Appellant is concerned, since he had not undergone imprisonment for the required period of 14 days in jail, his request was

not considered by the High Level Committee in its meeting held on 10.06.1998 and 19.02.1999, it is contended.

4. The Writ Court accepted the said stand taken by the Respondents and held that the Appellant is not entitled for pension, and accordingly,

dismissed the Writ Petition. The Writ Court was of the view that the Government was right in rejecting his claim based on the recommendation of

the High Power Committee. However, the learned Single Judge has given liberty to the Appellant to question the guidelines of the High Power

Committee. Challenging the said Order, the Appellant is before this Court with this Writ Appeal.

5. We have heard the Learned Counsel appearing for the Appellant, learned Government Advocate appearing for the Respondent and perused the

records carefully.

6. Indisputably, the Appellant was not imprisoned on conviction by any Criminal Court. But, he was detained in judicial custody for one day, viz.,

on 13.02.1965 on his arrest by the police for his participation in the said agitation. Now, the question is whether the said detention in judicial custody would satisfy the requirements of the Act to make him eligible for pension.

7. At this juncture, therefore, it would be worthwhile to extract Section 3 of the Act, which is thus:

3. Sanction of pension, grant of scholarship-- 1) The Government may sanction a pension of one hundred and fifty rupees per mensem, or grant not exceeding ten thousand rupees or both--

a) to every person who was exhibited conspicuous courage and nobility in his enthusiasm for the Tamil language or in his zeal to preserve the growth of Tamil language or to preserve the Tamil culture.

b). to the pendant of every martyr:

1. Provided where there are more than one dependant a martyr the pension or grant shall be sanctioned any one such dependants and for purpose

of such sanction of pension interference shall be given to a dependant in the Order specified in Clause (a) of Section 2 and where there are

more than one dependant of the same category specified therein, the pension or grant shall be apportioned among such dependants in such manner

as may be prescribed.

8. A plain reading of the above provision would make it ipso facto clear that it does not speak of any minimum period of days of imprisonment to

make an individual eligible for pension. Now, let us look into Section 4 of the Act.

4. Application for pension, etc -- 1) Any person who is eligible for sanction of pension grant or scholarship under this Act may make an application

to the Government in such form and in such manner, as may be prescribed.

(2). The application under Sub-Section 1) shall be accompanied by a certified from such officer, in such form, and in such manner, as may be prescribed.

3). On receipt, of an application under Sub-Section 1) Government may cause such enquiries as they may deem necessary to be made regarding

the eligibility or otherwise of the Applicant and may sanction the pension, grant or scholarship, as the case may be in accordance with the

provisions of this Act and the Rules made thereunder.

4). The Government while sanctioning pension other than the pension referred to in Sub-Section 5) grant or scholarship under this Act, shall take

into consideration the following factors namely;-

i). the remarkable skill or conspicuous talent in the Tamil Language exhibited the Applicant or the martyr as the case may be

(ii) the outstanding merit of the Applicant or the martyr as the case may be in contributing to the growth of Tamil language and the preservation of Tamil culture.

(iii) the courage and nobility exhibited by the Applicant in his zeal to preserve the growth of Tamil language or to preserve the Tamil culture.

(iv) the remarkable enthusiasm for Tamil language and his zeal to preserve Tamil culture evinced by the martyr;

v) the nature of the suffering either by way of imprisonment or otherwise undergone by the Applicant or the martyr, as the case may be or

vi) such other factors as may be prescribed

5. The Government, while sanctioning pension under Sub-Section 2 of Section 3 shall take into consideration such factors as may be prescribed.

9. A reading of Section 4(4)(v) of the Act would indicate that the nature of suffering may be either by way of imprisonment or otherwise. The term

otherwise"" needs to be underlined. This would clearly go to show that the Applicant either should have been imprisoned on conviction or

remanded to judicial custody. The term ""otherwise"" is an ejusdem generis. The correct way of interpreting Section 4(4)(v) would be that detention

as an under trial prisoner, would also amount to suffering in terms of Section 4(4)(v) of the Act. Neither Section 3 nor Section 4 of the Act would

provide for the requirement of a minimum period of 14 days for an individual to become eligible for pension under the Act.

10. But, the learned Government Advocate would submit that the High Level Committee constituted, as per the Rules, decided that a minimum

imprisonment of 14 days is necessary for grant of pension. It is in accordance with the said guidelines issued by the High Level Committee,

according to the learned Government Advocate, the request of the Appellant was rejected. To consider this submission, it is worthwhile to extract

Rule 5 of the Sides, which is thus;-

5. Sanction of pension, grant or scholarship -1) On receipt of the application for

sanction of pension, grant or scholarship as the case may be also

with the report of the Collector, the Government shall such application to the High Level Committee constituted by the Government under sub Rule

2.

2. There shall be constituted a High Level Committee consisting of a Chairman and such number of members as the Government may by order

specify.

3. The High Level Committee shall examine the eligibility of the Applicant for the sanction of pension, grant of scholarship as the case may be and

forward the application to the Government along with its recommendation. The Government on being satisfied about the eligibility of the Applicant

for the sanction of pension grant or scholarship as the case may be in accordance with the provisions of the Act and after taking into account the

recommendation of the High Level Committee shall make an order sanctioning the pension, grant or scholarship in form IV or rejecting the

application as the case may be.

11. A reading of the above Rub would make it undoubtedly clear that the Committee can examine the eligibility of an Applicant for sanction of

pension in terms of the Act. However, the Committee has no power to prescribe any additional qualification than what has been prescribed in the

Act. Therefore, the decision of the Committee to reject the application of the Appellant, because he had not undergone 14 days of imprisonment,

is wholly without jurisdiction and the same is not sustainable under law. The learned Single Judge has dismissed the Writ Petition on the ground that

the said guidelines of the High Level Committee binds the Appellant. We regret that we are unable to agree with the said conclusion.

12. In our considered opinion, the guidelines issued by the High Level Committee cannot have any statutory force so as to bind the Appellant.

When the Act provides that not only the imprisonment, but also judicial custody, irrespective of the number of days of such in carceration, is suffice

for acquiring eligibility to get pension, it is not at all within the power d jurisdiction of the Committee to reject the claim of the Appellant on the

ground that he had not undergone imprisonment for 14 days. Thus, in our considered opinion, the decision arrived at by the learned Single Judge

does not persuade us, and therefore, we are inclined to interfere with the same.

13. But, at the same time, the question, whether the Appellant is otherwise eligible for pension or not, is a matter to be considered by the

Government and we cannot express any opinion in that regard. We would only clarify that the imprisonment for 14 days is not required for grant of

pension and imprisonment or detention in jail as an under trial prisoner even for a single day would be suffice.

14. In the result, the Writ Appeal is allowed; the Order of the learned Single Judge dated 05.09.2008 is set aside and the first Respondent is

directed to consider the application of the Appellant strictly in accordance with law, as indicated above and pass appropriate orders within a

period of four months from the date of receipt of a copy of this Order. No costs. Consequently, connected Miscellaneous Petition is closed.