

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-12-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

WA No. 806 of 2022

1. The Government Of India
Rep. by its Under Secretary, Ministry of
Home Affairs, Lok Nayak Bhawan,
Khan Market, New Delhi 110 003.

Appellant(s)

Vs

S.Somasundaram(deceased)

1.Mrs.Rukmani

2.The State of Tamil Nadu
Rep. by Deputy Secretary to the Government,
Public(Political Pension) Department,
Fort st. George,
Madras 600 009.

3.The District Collector
Coimbatore Collectorate,
Coimbatore.

Respondent(s)

PRAYER

To allow the appeal and set aside the order of the Learned Judge of this Court in WP.No.40412 of 2005 dated 28-10-2020 and thus render justice.

For Appellant(s): Mr.R.Sanjay,
Central Government Standing
Counsel
For Mr.R.Rajesh Vivekananthan,
Deputy Solicitor General Of
India.

For Respondent(s): Mr. C.S. Jeyaprakash, For R1 Mr.S.Senthil
Murugan,
Special Government Pleader For R2 and
R3.

ORDER
(Order of the Court was made by S.M.Subramaniam J.)

Under assail is the writ order dated 28.10.2020 in WP.No.40412 of 2005.

2. Union of India preferred the present writ petition mainly on the ground that the applicant/deceased Freedom Fighter is ineligible to avail the Central Freedom Fighters Pension scheme, since requisite eligibility criteria has not been complied with. Writ Court has not considered the eligibility criteria and made a finding that eligibility criteria need not be strictly adopted in each and every case. Thus, present intra-court appeal came to be instituted.

3. Writ petition has been instituted initially by the Freedom Fighter, and on account of his death, legal heirs are substituted. Freedom Fighter filed an affidavit stating that he participated during the freedom struggle in Coimbatore District organized against British Government, and as a part of national

struggle for independence by Mahatma Gandhiji. He would submit that he participated in Quit India Movement and several other agitations against the British Government. Freedom Fighter was lodged in Coimbatore Central Prison as a trial prisoner from 01.09.1942 to 16.04.1943 for more than a period of six months. Since State Government Freedom Fighters Pension Scheme was granted to the Freedom Fighter, he submitted an application seeking Freedom Fighters Pension under the Central Scheme. Competent Authority of the Central Government rejected the same in Proceedings, dated 27.07.2005. Thus, writ petition came to be instituted.

4. Writ Court has elaborately dealt with the issue and made a finding that, eligibility criteria need not be strictly adopted in each and every case, if the case of the Freedom Fighter pension seeker is accepted, *prima facie*, by the State Government, and the State granted pension under State Government Scheme. Writ Court formed an opinion that once the State Government extended the benefit of Freedom Fighter Pension Scheme, then the Central Government has to extend the same, and the eligibility criteria fixed by Central Government scheme need not be followed strictly.

5. This Court has to examine, whether such a finding, which resulted in allowing of writ petition, would be in consonance with legal principles or not.

6. Freedom Fighters Pension Scheme is a welfare scheme declared by State Government as well as by Government of India for the benefit of Freedom Fighters. Therefore, welfare scheme is a concession extended to Freedom Fighters recognising their contributions during freedom struggle. Therefore, welfare schemes and concessions ought to be implemented scrupulously by following the terms and conditions. High Court in exercise of powers of judicial review cannot expand the scope of the policy decisions, especially in the matter of grant of pension to Freedom Fighters or to any other persons under Special Schemes. In the event of diluting the terms and conditions of the scheme, it will result in opening of Pandora's box and many such ineligible persons will seek benefits under the scheme, which would result in financial loss to the exchequer. Therefore, welfare schemes are to be implemented scrupulously in terms and conditions as stipulated.

7. In the above backdrop, let us now look into the decision of the Hon'ble Supreme Court in the matter of grant of Freedom Fighters Pension Scheme. In the case of ***Jagdamba Devi Vs. Union of India and Others***¹. The Hon'ble Supreme Court dealt with the Swatantrata Sainik Samman Pension Scheme (hereinafter referred as "SSS Scheme"), under which the respondent/writ petitioner submitted an application to the Government of India. The Apex Court in para 17 held as follows,

¹ 2017 3 SCC 688

“17. That Swatantrata Sainik Samman Pension Scheme, 1980 is a document based Scheme and the documents required for eligibility for Samman Pension as mentioned in the Scheme are to be produced by the applicant in support of his claimed suffering, duly verified and recommended by the concerned State Government. Due to the discrepancies and ambiguities relating to the documents and also due to non-production of NARC, benefit of the Scheme could not be extended to the appellant. As held in Raghunath Gajanan’s Case, it is not possible for this Court to scrutinize the documents as to its sufficiency or otherwise.”

8. In the case of ***Union of India Vs. A.Alagam Perumal Kone and Others***², the Apex Court held as follows,

“31. It may be true that the 1st Respondent is getting pension as per the scheme, mooted by the State, but, at the same time, to claim pension under the scheme of 1980, the 1st Respondent has to furnish the required proof as contemplated under the scheme. When the claim is under a particular scheme, unless one fulfills the eligibility criteria for grant of pension, as mentioned in the scheme, no applicant can claim such pensions, as a matter of right.”

² 2021 4 SCC 535

9. In the case of ***W.B.Freedom Fighters' Organization Vs. Union of India and Others***³, the Supreme Court held as follows,

“11. Strong reliance was placed upon the above mentioned observations of this Court and it was submitted that a sympathetic approach must be adopted in such cases. It was submitted that the object being to honour and mitigates sufferings of those who had given their all for the country, a liberal and not a technical approach should be taken. It was submitted that once the Scheme had been announced with the intention of honouring the freedom fighters the object and purpose of the Scheme must be kept in mind and the case of the claimants under the Scheme must be determined on the basis of the probabilities and not on the basis of a test of beyond reasonable doubt.

12. On the other hand, Mr. P.P. Malhotra, learned ASG appearing for the Union of India, and Mr. Janaranjan Das, learned counsel appearing for the State of West Bengal submitted that this was not a case where records were not available. It was submitted that, in this case, the State Government had appointed a statutory Advisory Committee which had looked into all the applications. It was submitted that the applications have not complied with the

³ 2004 7 SCC 716

provisions of the Scheme inasmuch as they have not submitted the relevant documents. It was submitted that all the applicants have given certificates from co-prisoner without producing NARCs. It was pointed out that in most of the cases the applicants claim to have gone undergone and yet certificate has been given by a prisoner who was himself supposed to have been in jail. It was pointed out that the Government has noticed large scale fraud in claiming pension and has, therefore, laid down strict guidelines which have been followed by the Advisory Committee.

13. Reliance was placed upon the case of Mukund Lal Bhandari vs. Union of India reported in (1993) Supp. (3) SCC 2, wherein it has been held that the scheme mentions documents which are required to be produced before the Government. It has been held that it is not for Courts to scrutinize the documents. It is held that it is for the Government to scrutinize the documents and pronounce upon their genuineness.”

10. The above judgments of the Hon'ble Apex Court made it clear that conditions stipulated under Central Government Scheme is to be followed for grant of Central Freedom Fighters Pension.

11. Let us now consider the conditions stipulated under SSS Scheme,

1980, dated 15.08.1981, under which the respondent submitted application seeking Freedom Fighter Pension. Clause 4 speaks about who is eligible and the same is extracted hereunder,

*“1 Who is eligible for Samman Pension:-
All the persons who participated in the freedom movement in some way or the other are not eligible for Samman Pension. Details regarding eligibility of the freedom fighters for grant of Central Samman Pension are given in annexure 1 (Swatantrata Sainik Samman Pension Scheme, 1980). Dependents of martyrs are also eligible for grant of the pension.”*

12. Eligibility conditions are stipulated in Annexure 2 and relevant portions are extracted hereunder,

*“2 Documents to be furnished
2.1 In case of imprisonment:*

(a) Imprisonment/detention certificate from the concerned jail authority, District Magistrate or the State Govt. indicating the period of sentence awarded, date of admission, date of release, facts of the case and reasons for release.

(b) In case records of the relevant period are not available, the secondary evidences in the form of 2 co-prisoner certificates (CPC) from freedom fighters who have proven' jail suffering of minimum 1 year and who were with the applicant in the jail could be considered provided the State Government/Union Territory Administration concerned, after due

verification of the claim and its genuineness, certifies that documentary evidences from the official records in support of the claimed sufferings were not available. In case the certifier happens to be a sitting or Ex. M.P./M.L.A., only one certificate in place of the two is required.

3. PROCEDURE

Persons who consider themselves eligible for Samman Pension under the Scheme and desire the Samman Pension, should apply in duplicate on the prescribed application form. The application, duly filled in and supported with required documents as proof of claim of suffering, should be sent to the Chief Secretary of the concerned State Government/Union Territory Administration. A copy of such application should be sent to the Deputy Secretary to the government of India FF Division, MHA, New Delhi as an advance copy. However, claims can be processed by the Central Govt. only on receipt of verification & entitlement to pension report from the State Govt./ U.T. Administration concerned. In case the requirements of the Scheme are fulfilled, Samman pension is granted to the applicant.

4. Acceptability of Secondary Evidence

Secondary evidences can be considered only if supported by a valid Non-Availability of Records Certificate (NARC), which should be in the following format:

"All concerned authorities of the State Government who could have relevant records in respect of the claim of the applicant, have been consulted and it is confirmed that the official records of the relevant time are not available.""

13. In the context of above eligibility criteria, case of the respondent is to be examined. It is not in dispute that State Government Freedom Fighters pension scheme has been extended to the respondent. But there is no automatic extension of Central Government Pension scheme, since the conditions are specifically stipulated under the SSS Scheme. Thus, for grant of Central pension, the Central Government scheme is to be followed. The competent authorities of the Government of India, Ministry of Home Affairs examined the application submitted by respondent, and following reasons are given stating that respondent is not eligible for grant of SSS Scheme, 1980 and they are,

"4. After examination of the case, it is found that you are not eligible for the grant of SSS Pension due to the following shortcomings:-

(1). You have not produced any acceptable record based documentary evidence to establish your jail sufferings.

(ii). In the absence of the documentary evidence, you are required to submit, a NARC from the Government of Tamil Nadu. You have not submitted the same.

(iii) Any secondary evidence like CPCs can be considered only in conjunction with an acceptable NARC. However, the CPCs submitted by you have been scrutinised, but these are also not acceptable for the reasons mentioned below.

Co-prisoner Certificate, dated 12.6.1981 of Shri A. Subbaiah, is not acceptable, as:

a) Co-prisoner Certificate does not contain the ingredients mentioned in para 2 above.

b) The certifier has not furnished any evidence of his own jail suffering for a period of one year or more. Hence, he is not a eligible certifier to issue such certificate.

Co-prisoner Certificate, dated 28.6.1981 of Shri M. Arumugam, is not acceptable, as

a) Co-prisoner Certificate does contain the ingrediants mentioned in para 2 above.

b) The certifier has not furnished any evidence of his own jail suffering for a period of one year or more. Hence, he is not a eligible certifier to issue such certificate.

(iv) As regards the sanction of State Freedom Fighter's Pension to you by the Government of Tamil Nadu, it is clarified that the Freedom Fighters'

Pension Scheme operated by the State Government and the Central Government are two separate Schemes having different provisions. The applicant is eligible for Central Pension only if his claim satisfies the requirements as envisaged in the Central Scheme. Grant of pension by State Government under Its Scheme does not ipso facto entitle a freedom fighter to the Samman Pension under the Central Scheme. This status is upheld by the Hon'ble High Court of Kerala in its Judgement dated 18.2.2005 delivered in W.A. No. 1676/2003 (against judgement dated 19.6.2003 in O.P. No.1366/2001) filed by K. Gopinathan Pillai V/s Union of India & others., the Hon'ble Division Bench of the Kerala High Court has upheld as follows:

"10..... The mere fact that the appellant was granted pension under the State Scheme does not make the appellant eligible for pension under the Central Scheme. The terms and conditions for grant of pension under the Central Scheme are totally different from those which are prescribed for grant of pension under the State Scheme."

14. The eligibility condition *prima facie* states that all the persons, who participated in the freedom movement in some way or the other is not eligible for SSS Pension Scheme. Therefore, Freedom Fighters, who satisfies the condition stipulated under the SSS scheme alone is eligible for Freedom

Fighters Pension Scheme. High Court cannot expand the scope of pension scheme, and it would fall beyond the realm of the powers of judicial review. If at all, respondent could be able to secure all the essential certificates and produce the same to the competent authorities, then alone the case is to be considered under the Scheme.

15. In the present case, the authorities found that required documents have not been produced. Thus, respondent is at liberty to collect required documents and re-present the application and in that event, it is to be considered under the Scheme. Writ Court has taken a view that eligibility criteria need not be strictly adopted in each and every case, and such a view is running counter to the legal principles settled by the Hon'ble Supreme Court of India and expansion of the scope of scheme is impermissible.

16. Thus, the writ order dated 28.10.2020 in WP.No.40412 of 2005 is set aside and Writ Appeal is allowed. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.SUBRAMANIAM J.)(C.KUMARAPPAN J.)

15-12-2025

gd

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

1.S.Somasundaram(deceased)1.Mrs.R
ukmani
W/o.Late Somasundaram, 2/821D,
The Golden City, Meenakshi Nagar
East, Kanankkam Palayam, P.Nallur,
Thiruppur 641 666.

2.The State of Tamil Nadu
Rep. by Deputy Secretary to the
Government, Public(Political Pension)
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