

Janakiammal Vs. the Secretary to Government, Tamil Development Culture, Endowments and Information Department,

Janakiammal Vs. the Secretary to Government, Tamil Development Culture, Endowments and Information Department,

SooperKanoon Citation : sooperkanoon.com/848362

Court : Chennai

Decided On : Mar-31-2010

Judge : N. Paul Vasanthakumar, J.

Acts : Payment of Pension to Tamil Scholars and Miscellaneous Provisions Act, 1983 - Section 4 and 4(4); ;[Constitution of India](#) - Article 14

Appeal No. : W.P. No. 5403 of 2010

Appellant : Janakiammal

Respondent : The Secretary to Government, Tamil Development Culture, Endowments and Information Department, ;the

Advocate for Def. : R. Neelakandan, Government Adv.

Advocate for Pet/Ap. : A.L. Namasivayam, Adv.

Judgement :

ORDER

N. Paul Vasanthakumar, J.

1. The prayer in the writ petition is to issue a writ of mandamus directing the first respondent to sanction Tamil Scholar Pension at the rate of Rs. 2,000/- per month

considering the status of the petitioner, who is the widow of Late M. Chidambaram, who participated in the merger of Tamil areas with the State of Tamil Nadu based on the petitioner's representation dated 2.3.2007 with arrears of pension and continue to pay till the petitioner's life time.

2. The petitioner is a widow, aged 70 years. The case of the petitioner is that petitioner's husband M. Chidambaram participated in the agitation launched by the late M.P. Sivagnanam and others during 1956, for the cause of merger of Tamil areas with the State of Tamil Nadu in particular for the merger of Tiruthani with the State of Tamil Nadu. Petitioner's husband was imprisoned in Central Prison, Chennai-3 from 24.9.1956 to 1.10.1956 and the jail extract to prove the petitioner's husband's jail suffering is filed in the typed set of papers. Petitioner's husband died on 5.12.1990 and death certificate is also issued by the competent authority to establish the petitioner's status as widow of the said M. Chidambaram. Petitioner has also filed the Identity Card issued by the Election Commission of India and the Family Card to prove her above status.

3. Petitioner being the widow of the Tamil Scholar/person who fought for the merger of Tamil area with the State of Tamil Nadu, submitted an application on 2.3.2007 for the sanction of Tamil Scholar (Family) Pension under the provisions of the Payment of Pension to Tamil Scholars and Miscellaneous Provisions Act, 1983. In the said representation petitioner stated that all the persons who participated in the said agitation and underwent imprisonment are getting Rs. 4,000/- per month, apart from medical allowance and the widows of the persons, who participated in the agitation are being paid Rs. 2,000/- per month as family pension.

4. The said application was forwarded by the second respondent to the third respondent on 28.3.2007 and sought for his recommendation. The District Collector in turn requested the Tahsildar, Pallipattu to conduct an enquiry and submit a report. The Tahsildar, Pallipattu, after enquiry, submitted a report to the District Collector, however, the petitioner is not sanctioned with family pension.

5. The petitioner submitted another representation before the respondents on 1.10.2008 followed with Counsel notice dated 20.10.2008. On 7.11.2008 the first

respondent sent a reply to the petitioner stating that action is being taken by the second respondent after getting report from the third respondent. As no action is taken till date, the above writ petition is filed by the petitioner with the above said prayer.

6. The writ petition was posted for admission on 19.3.2010 and the Government Advocate, who took notice on behalf of the respondents, was directed to get instructions. On 26.3.2010 the learned Government Advocate produced a report dated 19.12.2009 sent by the Tahsildar, Pallipattu, addressed to the District Collector stating that the petitioner's husband was imprisoned for less than 15 days and the petitioner was receiving old age pension from July, 2008 and the Tahsildar requested the District Collector to submit a report for appropriate orders. The District Revenue Officer, Tiruthani, by his proceedings dated 20.11.2009 addressed to the third respondent submitted that since the petitioner is receiving old age pension from July, 2008, she is not entitled to get Tamil Scholar (Family) pension.

7. The learned Counsel appearing for the petitioner submitted that the old age pension received by the petitioner from July, 2008 is a paltry sum of Rs. 400/- per month, whereas the petitioner will get Rs. 2,000/- per month, if the Tamil Scholar (Family) Pension is sanctioned to her. The learned Counsel also submitted that the petitioner need not be paid old age pension if Tamil Scholar Pension is sanctioned to her and the amount already paid can be adjusted from the arrears of Tamil Scholar (Family) Pension payable to the petitioner. The said submission is recorded.

8. Heard the learned Government Advocate appearing for the respondents.

9. The points for consideration in this writ petition are, whether the petitioner is entitled to get Tamil Scholar (Family) Pension as she being the widow of late Chidambaram, who underwent imprisonment for the merger of Tamil areas with the State of Tamil Nadu, and if the petitioner's claim is sustainable, from which date she is entitled to get the said pension.

10. Admittedly the petitioner's husband underwent jail sufferings for the merger of Tiruthani with the State of Tamil Nadu and a jail certificate is available to establish the said fact. The two reasons stated by the department in the instruction given to the Government Pleader are that the petitioner's husband's jail sufferings is less than 15 days and the petitioner is getting old age pension of Rs. 400/- per month from July, 2008.

11. The claim for Tamil Scholar Pension should be considered under the provisions of the Payment of Pension to Tamil Scholars and Miscellaneous Provisions Act, 1983. The first respondent also issued G.O.Ms. No. 21 Tamil Development and Culture Department, dated 20.6.1984 for the sanction of Tamil Scholar Pension. In Rule 3, it is stated that the application for pension should be submitted to the first respondent and the copy of such application should be sent to the third respondent. The first respondent after receipt of the application, forwarded the same to the District Collector to conduct an enquiry and after getting the report and other documentary evidence under Rule 5 of the Act, pension shall be sanctioned after referring the matter to the High Level Committee, constituted under Sub-rule (2). The High Level Committee shall examine the eligibility of the applicant and forward the application to the Government for the sanction of pension. Thus, it is manifest that the person who suffered for the development of Tamil language or the merger of Tamil areas are statutorily entitled to get pension from the first respondent if they are having sufficient materials to prove that they suffered for the cause of Tamil language.

12. The Rules framed by the Government clearly show that every application for sanction of pension or grant or scholarship has to be submitted to the Secretary to the Government of Tamil Nadu, Tamil Development and Culture Department in Form-I together with the attested copies of documents evidencing the factors supporting the claim. The applicant has to send a copy of such application to the Collector of the District concerned. Elaborate procedure has been formulated in Rule 4 of the Rules. It is clear from Rule 4 that on receipt of the application from the person concerned, under Section 4, the Government is to forward the application to the Collector of District concerned for conducting necessary enquiry. The Collector of the District is authorised to get a report from the Enquiry Officer

regarding the eligibility for sanction of pension grant or scholarship. As per Rule 2(b), it is open to the Revenue Divisional Officer or any other Officer of the Revenue Department not below the rank of a Revenue Inspector to conduct an enquiry, personally interview the applicant, verify the original documents produced, period of imprisonment etc. and sent a report to the Collector. It is also clear that whenever any imprisonment certificate is produced, the Superintendents of the Jails are directed to permit to the Enquiry Officer or the applicant concerned to peruse the jail records and also furnish extract from the convict register without any delay and free of cost. After completion of the enquiry, the Enquiry Officer has to submit report in Form-II to the Collector. Thereafter, the Collector has to satisfy himself that the enquiry has been full and complete and then forward the application along with his report in Form-III to the Secretary to the Government of Tamil Nadu, Tamil Development Culture Department, Madras 600009, together with his recommendation regarding the eligibility or otherwise of the applicant for the sanction of pension, grant or scholarship. On receipt of such report from the Collector, as per Rule 5, the Government has to refer such application to the High Level Committee, constituted by them under Sub-rule (2). Sub-rule (3) of Rule 5 enables the High Level Committee to examine the eligibility of the applicant and forward the application to the Government along with its recommendation. Thereafter, the Government on being satisfied about the eligibility for sanction of pension, grant or scholarship in Form-IV or reject the application. Further, the order sanctioning the pension or as the case may be shall communicate to the grantee, the Collector, the Director of Treasuries and Accounts, the Accounts Officer, Pension Pay Office etc.

13. It is an admitted case before this Court as per paragraph 4 of the counter affidavit filed in W.P. No. 14718 of 1993 that Tamil Scholar Pension can be sanctioned not only to the Tamil Scholars, but also to those who had fought for the merger of Tamil areas with the State of Tamil Nadu. It is also a fact that in respect of the persons who underwent imprisonment for the same cause, the Government sanctioned pension for more than hundred persons on the basis of co-prisoners certificate (recorded in the decision reported in : (1999) 3 MLJ 728 (cited supra)). It is relevant to point out that nowhere in the said Act or rules framed there under it is stated that minimum 15 days of imprisonment is to be proved for getting Tamil

Scholar Pension.

14. Even a person, not having jail certificate and who obtained Co-prisoner's Certificate from the person, who participated in similar agitation, was found to be eligible for getting Tamil Scholar Pension, in the decision reported in 1997 WLR 639 (K. Arumugham Nadar v. The Government of Tamil Nadu) (E. Padmanabhan, J.). In the said decision it was ordered that the claim for Tamil Scholar Pension should be considered with compassion and proof required is only participation in the merger movement as per the rules and therefore directed the respondents to sanction Tamil Scholar Pension from the date of the application.

15. His Lordship Mr. Justice P. Sathasivam (as he then was) considered similar claim of Tamil Scholars in the decision reported in : (1999) 3 MLJ 728 (C. Natarajan v. The Government of Tamil Nadu). Relying upon Section 4(4)(v) of the Act, His Lordship held that considering the nature of the sufferings either by way of imprisonment or otherwise undergone by the applicants, the claimant is entitled to get Tamil Scholar Pension, and allowed the claim of the petitioners therein by giving direction to pass fresh orders as per the judgments rendered.

16. The respondents herein sanctioned Tamil Scholar Pension to 142 persons, who underwent less than 15 days from 1.1.2000 complying with the said judgment. Those persons participated in the merger of Tiruthani with the State of Tamil Nadu similar to the petitioner's husband, having not been sanctioned with the Tamil Scholar Pension approached this Court by filing W.P. Nos. 511 to 516 of 2006 etc., batch and this Court (P.K. Misra, J., as he then was) by order dated 21.4.2006 ordered monthly pension to the petitioners therein and found that one time grant of Rs. 10,000/- sanctioned to them is arbitrary. The said order was implemented by the Government through G.O.Ms. No. 71 Tamil Development and Cultural Department dated 21.2.2007 by sanctioning Tamil Scholar Pension to 59 persons at the rate of Rs. 4,000/- per month and at the rate of Rs. 2,000/- per month to eight persons as Family Pension. At this juncture it is pertinent to note that the persons benefited by the said Government Order underwent imprisonment only for three days/less than 15 days. Thus, the contention of the respondent is arbitrary and violative of the Act, Rules and Article 14 of the [Constitution of India](#).

17. Monthly pension sanctioned in the order of this Court dated 21.4.2006 restricting the said pension from the date of the order of this Court was again questioned by two persons in W.P. No. 1533 and 6484 of 2008 and this Court (P. Jyothimani, J.) by order dated 11.11.2009 ordered to pay monthly pension from 1.1.2000 as it was paid to large number of similarly placed persons. The said judgment is followed in W.P. No. 16268 of 2008, order dated 18.2.2010 (C. Nagappan, J.) and allowed the writ petition by giving direction to sanction Tamil Scholar Pension from 1.1.2000.

18. Thus the issue with regard to the payment of Tamil Scholar Pension to the petitioner has to be necessarily answered in favour of the petitioner as the petitioner's husband was imprisoned for the period of more than a week as evidenced by the jail extract produced by the petitioner.

19. In the decision reported in : (1999) 3 MLJ 728 (cited supra) this Court in para 16 held thus,

16. Having framed a legislation in order to help the persons who fought for the Tamil language and Tamil Culture and having accepted the persons who had fought for the merger of Tamil areas with the State of Tamil Nadu are entitled for pension under the Act, it is not open for the respondents to deny the claim of the petitioners purely on technical grounds as observed by J. Kanakaraj, J., in Gabriel, D. v. The Government of India 1991 WLR 49, the schemes are introduced by the Government not for the purpose of adding feathers to their cap. As rightly observed in a matter like this, the razor edge interpretation is certainly not called for....

20. The contention of the respondents that the petitioner being the recipient of old age pension from July, 2008 can also be taken care of by stopping the said payment by the respondents. If the petitioner is sanctioned with Tamil Scholar (Family) Pension of Rs. 2000/- per month from the date of her application i.e., from 2.3.2007, from the arrears payable to the petitioner, the amount already paid as old age pension at the rate of Rs. 400/- per month from July, 2008, can easily be adjusted and the respondents can pay the balance amount and continue to pay family pension for the lifetime of the petitioner.

21. In the light of the above findings, the writ petition is ordered with direction to the High Level Committee headed by the second respondent to consider the claim of the petitioner, who is the widow of late M. Chidambaram, who underwent imprisonment in Central Prison, Chennai-3 from 24.9.1956 to 30.9.1956 for the cause of merger of Tiruthani with the State of Tamil Nadu. The second respondent is directed to submit the recommendation of the High Level Committee to the first respondent for the sanction of Tamil Scholar (Family) Pension to the petitioner at the rate of Rs. 2,000/- per month. The first respondent is directed to pass orders accordingly within a period of eight weeks from the date of receipt of copy of this order. It is made clear that till orders are passed as directed above, the payment of old age pension hitherto paid to the petitioner shall be continued.

The writ petition is ordered with the above directions. No costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com