

SUPREME COURT OF INDIA

State of Tamil Nadu

Vs.

A. Manicham Pillai

C.A.No.4400 of 2007

(Harjit Singh Bedi T.S.Thakur JJ.)

27.01.2010

JUDGEMENT

Harjit Singh Bedi, J.

1. This appeal is an example and a reflection of the way we treat our freedom fighters inasmuch that while we applaud their contributions to the fight for freedom, deny them a pension, which, even if granted, amounts to a pittance and while many who apply are under financial distress, all without exception, wear it as a badge of honour and as a certificate of recognition of their efforts in the struggle for independence.

2. The respondent, A. Manickam Pillai claiming to be a freedom fighter, applied for the grant of a freedom fighter's 2 pension on 30th December 1996. This representation was rejected by the Collector on 21st August 1997. Undeterred, the respondent again filed an application on the 8th May 1998 and after a recommendation by two Collectors and the District Level Screening Committee, it was forwarded to the State Government. This was, however, rejected by the State Government on the ground that in the face of Government Order No.30 dated 7th February 1996 such an application had to be supported by a certificate of a co-prisoner who was a Government approved certifier and the certificate appended had been issued by one Mayandi Bharathi, who was not a Government approved certifier. The respondent thereupon filed a writ petition in the High Court, appending therewith another certificate issued by one Karuppan Chettiar certifying as accurate (on the basis of his personal knowledge) the contents of the certificate issued by Mayandi Bharathi. Before the Single Bench, the appellant-State took the stand that as per the Government instructions dated 7th February 1996, it was mandatory for an applicant seeking a freedom fighter's pension to produce co-prisoner certificates from two of the 3 persons mentioned in the Memorandum dated 16th November 1988 indicating specifically that the applicant as well as the certifiers had undergone imprisonment in the same jail and in the absence of such evidence, the applicant was not entitled to a pension. It was pointed out that neither Mayandi Bharathi nor Karuppan Chettiar satisfied this rigid test. The learned Single Judge, however, rejected this plea by observing that as the respondent's case for pension had been

recommended by two Collectors and the District Level Screening Committee, the mere fact that a co-prisoner's certificate had not been appended would make no difference and having held as above, allowed the writ petition. This judgment was affirmed in appeal by the Division Bench by its judgment dated 26th June 2006 which has now been impugned before us.

3. It has been submitted by the learned counsel for the appellants that in the light of the fact that the respondent had not provided the documents/evidence that was envisaged in the order dated 7th February 1996, the mere fact that some certificates had been appended or a recommendation had been made by the Collectors or the District Level Screening Committee would not entitle the respondent to a pension. It has been submitted that the Government Order had to be read in toto and the right created in the respondent by the said order was circumscribed by the conditions laid down for its applicability.

4. The learned counsel for the respondent has, however, submitted that the Single Judge and the Division Bench of the High Court had clearly observed that the fact that the respondent was indeed a freedom fighter, had not been disputed by the appellant-State or its agents and even assuming that the Government Order dated 7th February 1996 was applicable, in the facts as given above, this Court should not interfere in the matter under Article 136 of the Constitution.

5. We have considered the arguments advanced by the learned counsel for the parties. It will be seen that the respondent, had, in the writ petition, appended two certificates, one given by Mayandi Bharathi, who was a co- 5 prisoner with the respondent and was also recipient of a freedom fighter's pension sanctioned by the Government of Tamil Nadu and other benefits as well in accordance with that status, and this certificate gave full details with regard to the incarceration of the respondent and his contribution to the freedom movement. This certificate had earlier been rejected by the State Government on the plea that the Mayandi Bharathi was not an approved certifier, as required by the Government instructions dated 7th February 1996. The second certificate appended in the High Court by the respondent was the one issued by Karuppan Chettiar dated 30th December 1998 who was an approved certifier and who certified that he knew the respondent and further that the contents of the certificate issued by Mayandi Bharathi were correct, and he accordingly recommended the respondent's claim. We see that the stand of the appellant-State based on the communication dated 7th February 1996 is, in fact, misplaced. This communication refers to the difficulty being faced by applicants for freedom fighters' pension in producing co-prisoner certificates from two of the persons mentioned in 6 the Government Order of 16th November 1988. Realizing this difficulty, the State Government by its order dated 7th February 1996 issued a modified and simplified procedure for the grant of certificates with effect from that date. A perusal of this G.O. would reveal that freedom fighter certificates could now be issued by approved certifiers and these were held as sufficient evidence for the grant of a pension. The G.O. further set out the constitution of District Level Screening Committees to be nominated by the Government in consultation with the Collectors concerned and that these committees were required to personally examine the documents produced and decide as to the

entitlement of the applicant to the grant of pension and refer the matter for formal approval to the State Government.

6. We find two certificates on record - one of Mayandi Bharathi and the other of Karuppan Chettiar, an approved certifier. We also see that the matter had been recommended by two Collectors and the District Level Screening Committee.

“This was sufficient compliance with the Government Order of 7 7th February 1996. Significantly, the State Government has not disputed the respondent's claim on facts. We are, thus, disinclined to interfere in the matter under our jurisdiction under Article 136 of the Constitution. Dismissed. No costs.”