

A STATE OF TAMIL NADU & ANR.

v.

A. MANICKAM PILLAI
(Civil Appeal No. 4400 of 2007)

JANUARY 27, 2010

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[HARJIT SINGH BEDI AND T.S. THAKUR, JJ.]

Freedom Fighters' Pension – Claim for – Application appended with certificate from co-pensioner – Claim rejected by State Government as the application was not appended with certificate from approved certifier – Writ petition appended with certificate from approved certifier – Single Judge as well as Division Bench of High Court granted the claim – On appeal, held: State Government was not correct in rejecting the claim as the same was recommended by two Collectors and District Level Screening Committee – Requirement of certificate from approved certifier was introduced to curb the difficulty faced by the claimants in getting certificate from co-prisoners Constitution of India—Art. 136.

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Respondent's application for grant of freedom fighter's pension was rejected by State Government on the ground that the co-prisoner, whose certificate was appended to the application, was not an approved certifier.

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The Respondent filed a writ petition, appending therewith another certificate issued by an approved certifier. A Single Judge of High Court allowed the writ petition. The judgment was affirmed by Division Bench of High Court. Hence the present appeal.

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Dismissing the appeal, the Court

HELD: 1.1. The certificate issued by the co-prisoner

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had been rejected by the State Government on the plea A
that the co-prisoner was not an approved certifier, as
required by the Government instructions dated 7th
February 1996. The stand of the appellant-State based on
the communication dated 7th February 1996 is misplaced.
This communication refers to the difficulty being faced by B
applicants for a freedom fighters' pension in producing
co-prisoner certificates from two of the persons
mentioned in the Government Order of 16th November
1988. Realizing this difficulty, the State Government by its
order dated 7th February 1996 issued a modified and C
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 D
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 E
of the applicant to the grant of pension and refer the
matter for the formal approval to the State Government.
[Para 5] [76-A-H]

1.2. In the present case, there are two certificates on
record. The matter had also been recommended by two F
Collectors and the District Level Screening Committee.
This was sufficient compliance with the Government
Order of 7th February 1996. The Court, is thus,
disinclined to interfere in the matter, in exercise of
jurisdiction under Article 136 of the Constitution of India. G
[Para 6] [77-A-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No.
4400 of 2007.

A From the Judgment & Order dated 26.6.2006 of the High Court of Judicature at Madras in Writ Appeal No. 745 of 2006.

T. Harish Kumar (NP) for the Appellants.

B S. Ravi Shankar for the Respondent.

The Judgment of the Court was delivered by

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.

D 2. The respondent, A. Manickam Pillai claiming to be a freedom fighter, applied for the grant of a freedom fighter's 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 A
to produce co-prisoner certificates from two of the 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 B
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 C
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. D

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 E
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 F
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 G
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. H

A 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-prisoner with the
respondent and was also recipient of a freedom fighter's
B 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
C 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
D 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
E being faced by applicants for freedom fighters' pension in
producing co-prisoner certificates from two of the persons
mentioned in 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
F 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
G 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.

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6. We find two certificates on record – one of Mayandi A
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
7th February 1996. Significantly, the State Government has not B
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.

K.K.T.

Appeal dismissed.

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