

Kerala High Court

Smt.K.V.Madhavi Amma vs Union Of India Represented By The on 8 April, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 12617 of 2010(B)

1. SMT.K.V.MADHAVI AMMA,W/O.LATE PULIKKOOOL
... Petitioner

Vs

1. UNION OF INDIA REPRESENTED BY THE
... Respondent

2. THE UNDER SECRETARY TO GOVERNMENT OF

3. THE PRINCIPAL SECRETARY TO GOVERNMENT OF

For Petitioner :SRI.O.D.SIVADAS

For Respondent :SHRI.MATHEW SEBASTIAN, CGC

The Hon'ble MR. Justice T.R.RAMACHANDRAN NAIR

Dated :08/04/2010

O R D E R

T.R.RAMACHANDRAN NAIR, J.

W.P.(C)No.12617 OF 2010

DATED THIS THE 8th DAY OF APRIL, 2010

J U D G M E N T

The petitioner is the wife of late Shri Pulikkool Cheriya Krishnan Nair, who was a freedom fighter, who participated in the Kavumbai struggle. He was arrested on 26.12.1946 and remanded to jail. The offences alleged against the petitioner's husband were under sections 147, 148 and 379 of IPC. The criminal case initiated by the police was registered as C.C.No.27/1947. The petitioner's husband was an under trial prisoner from 26.12.1946 and no bail was granted. Later, on 10.5.1947, the learned Magistrate convicted the petitioner's husband and after the conviction, he was transferred

to the Central Prison, Vellore and after the independence, he was released on 2.11.1947. Exhibit P1 is the relevant extract of the under trial prisoners and convict register maintained by the Superintendent, Central Prison, Kannur relating to the petitioner's husband.

2. The Kavumbai struggle is one recognised now for grant of freedom struggle pension. Earlier, pension was sanctioned to the petitioner's husband as per Exhibit P3, which was re-issued in the name of the petitioner as per Exhibit P4. It was withdrawn by Exhibit P5 for the reason that Kavumbai struggle has not been recognised as freedom struggle. After the Kavumbai struggle was recognised as per Exhibit P8 proceedings dated 20.1.1998, the petitioner has submitted an application for grant of pension as per Exhibit P9. It is averred in the Writ Petition that the District Collector and District Advisory Committee considered the matter and forwarded the report to the State Government recommending the application. Exhibit P10 is the said communication whereby the State Government has recommended the application of the petitioner for grant of pension.

3. The learned counsel for the petitioner submitted that so far no final orders have been passed in the matter. Heard the learned Central Government Standing Counsel Shri Mathew Sebastian.

4. Evidently, this is a case where pension was sanctioned initially by Exhibit P3 to the husband of the petitioner and later to the petitioner as per Exhibit P4. Therefore what is involved is actually a restoration of the grant of pension as the cancellation was only due to the fact that the Kavumbai struggle was not recognised for grant of pension then as is clear from Exhibit P5. In the light of the recognition of the said struggle for the purpose of pension as per Exhibit P8 order, such an objection does not survive also.

5. Therefore, there will be a direction to the first respondent to consider the original of Exhibit P9 along with Exhibits P3 and P4 which was forwarded by the State Government along with the recommendation, jail certificates, etc. and take appropriate decision and communicate the same to the petitioner within a period of four months from the date of receipt of a copy of this judgment. The petitioner will forward a copy of this Writ Petition along with a copy of this judgment for compliance.

The Writ Petition is disposed of as above.

T.R.RAMACHANDRAN NAIR, JUDGE dsn