

## **V. Subramanian Vs Mr. S. Audiseshiah, I.A.S., Secretary to Government (Incharge), The State of Tamil Nadu, Public (P.P.I.) Department**

**Court:** Madras High Court

**Date of Decision:** Aug. 9, 2007

**Hon'ble Judges:** M. Jaichandren, J

**Bench:** Single Bench

**Advocate:** Su. Srinivasan, for the Appellant; K. Elango, SGP, for the Respondent

### **Judgement**

M. Jaichandren, J.

This contempt petition has been filed by the petitioner, praying that this Court may be pleased to punish the respondent for contempt, for willful disobedience of the order, dated 27.06.2006, made by this Court in W.P. No. 37187 of 2003.

2. It is submitted that the petitioner is a freedom fighter and that his name had been recommended by the District Collector, Coimbatore, who is

the head of the District Level Screening Committee for the grant of the State Freedom Fighters Pension. The District Level Screening Committee,

consisting of Senior officials and renowned freedom fighters, scrutinises the relevant records of the person, who had made a request for the

payment of the State Freedom Fighters Pension. After being satisfied with the veracity of the claim, the Committee recommends the name of the

individual concerned for sanctioning of the State Freedom Fighters Pension. The petitioner's name had been recommended, confirming to the

facts, the guidelines, etc. by the said Committee, vide its proceedings, dated 22.02.1999. However, the same had been subsequently rejected,

vide proceedings No. 19153/A03/2000-7, dated 01.03.2001. Based on the earlier decisions of this Court, as well as the decisions of the

Supreme Court, this Court had set aside the order, dated 01.03.2001, by an order, dated 27.06.2006, made in W.P. No. 37187 of 2003. By its

order, dated 27.06.2006, this Court had further directed the respondent to consider the claim of the petitioner for the grant of the State Freedom

Fighters Pension, in the light of the recommendation, dated 22.02.1999, and to pass appropriate orders, within a period of eight weeks from the

date of receipt of a copy of the order. The petitioner had further stated that the respondent, instead of considering the order made by this Court,

on 27.06.2006, in its proper perspective and without understanding the spirit of the order had rejected the District Collector's recommendation,

vide Letter No. 16341/PP.III/2006-4, dated 11.09.2006. The rejection of the petitioner's claim by the respondent amounts to deliberate and

willful disobedience of the order of this Court, dated 27.06.2006, made in W.P. No. 37187 of 2003.

3. It had been further stated that in a similar case relating to one K.V. Sreekumar from the State of Maharashtra, the District Screening Committee

had recommended his name for the grant of the State Freedom Fighters pension. However, the said recommendation was rejected by the State

Government, vide communication, dated 09.06.1999, which was challenged by K.V. Sreekumar before this Court. This Court, by its order dated

16.09.2004, made in W.P. No. 11970 of 2004, had struck down the order passed by the State Government. Since the State Government had not

filed an appeal in the said case, the order passed by the High Court had become final and the claimant was paid the State Governments Freedom

Fighters Pension. Even though the case of the present petitioner is similar to that of K.V. Sreekumar, the respondent had rejected the petitioner's

claim without having valid grounds to do so. Therefore, the respondent is liable to be punished for contempt, as stated in the petition.

4. In the counter filed on behalf of the respondent, it has been submitted that he has great respect for the orders of this Court and that he had never

intended to disobey the order of this Court, dated 27.06.2006, made in W.P. No. 37187 of 2003. The respondent has also tendered his

unconditional apology, in case it is found that he had not complied with the order of this Court, either in law, or in spirit.

5. The respondent had further submitted that as per the guidelines prescribed by the Government, for the sanction of the State Freedom Fighters

Pension, a freedom fighter, who was 18 years of age when he was imprisoned, can obtain a co-prisoner certificate from any one of the two

persons nominated by the Government. With regard to persons who are underground sufferers, a Court order, arrest warrant or any other official

documentary evidence was required, as proof, for the claimants having been underground during the freedom fight. The decision of the

Government to accept, or to reject the claim of the petitioner, for the sanction of the State Freedom Fighters Pension is based only on merits.

6. Out of the three persons, who had certified in favour of the petitioner, only one of them, namely, R. Sengaliappan had been authorised by the

Government to issue a co-prisoner certificate in relation to Coimbatore District. The District collector had recommended that the co-prisoner's

certificate may be accepted and appropriate orders be issued on the request of the petitioner for the grant of the State Freedom Fighters Pension.

The Government having examined the proposal of the Collector of Coimbatore District, had observed that the certificates which have been treated

by the Collector as co-prisoner certificates are only Personal Knowledge Certificates. Since the petitioner had not furnished the co-prisoner

certificate from any one of the authorised persons and since he had not placed any documentary evidence regarding his being underground, his

request has been rejected by the Government by its letter No. 12794/99-1 Public (PP.III) Department, dated 18.05.1999.

7. The petitioner had filed W.P. No. 18266 of 2000 before this Hon'ble Court, wherein a direction was issued to the Government to consider the

claim of the petitioner for the sanction of the Freedom Fighters Pension and dispose of the same, within four months from the date of receipt of

production of a copy of the order. In view of the said order, the District Collector was requested to examine the claim made by the petitioner

based on the guidelines issued in Government Letter No. 12273/PP.II/96-20 Public (Political Pension-II), Department, dated 13.01.1997. The

Collector, by his Letter, dated 02.01.2001, had reiterated that the District Level Screening Committee had recommended the grant of the State

Freedom Fighters Pension to the petitioner and had requested for the orders by relaxing the relevant rules. The Government after careful

consideration of the proposals, along with the documents furnished by the petitioner, had rejected his request, vide Government Letter No.

19513/PP.III/2000-7 Public (PP-III), Department, dated 01.03.2001, on the various grounds stated in the said counter affidavit. The request of

the petitioner was rejected by the Government, Vide Letter No. 16341/PP.3/2006-04, dated 11.09.2006, stating as follows:

I am directed to invite your attention to the reference cited and to state that the Government have examined the proposal of the Collector of

Coimbatore in his letter No. 2/40511/97 dated 22.2.1999 on your request for the grant of State Freedom Fighters Pension. On verifying the

records, it is found that there are no certificates giving direction evidence of your age. The family ration card for the period of 1993-1998 shows

your age was 66 years in 1998. It means you were just 10 years of age during 1942 and you had not attained the prescribed age limit of 18 years

of age. There could not be any possibility of underground sufferings for those below 18 years of age. While confirming your participation in the

freedom struggle during the year 1942, Thiru. R. Sengaliappan, Coimbatore District in his certificate dated 14.6.1982 has further stated that you

were not arrested on that occasion since you were so young at that time. The certificates obtained from Tvl. R. Chinnaiya gounder and K.

Marappa Gounder and produced as certificate of suffering for abscondance are merely in the nature of Personal Knowledge Certificates. Further

the age proof as in the family ration card do not tally with certificate of underground suffering because of your age was below 18 years in 1942.

2. According to the orders issued in G.O.Ms. No. 910, Public (PP.II) Dept. dated 7.6.1982 the underground sufferers can become eligible for

grant of State Freedom Fighter Pension if the case is as under

Freedom Fighters who were underground or whose property was confiscated/attached or who were removed/dismissed from service, on account

of their participation in the Freedom Movement, provided that such claims are supported by Court or other official documentary evidence.

3. According to the guidelines issued in Govt. Letter. No. 12273/96-20, Public (PP.II), Department, dated 13.1.1997.

In cases where the petitioners went under ground during Freedom Movement and in cases who participated in Madurai Conspiracy or Bombay

Naval Mutiny and in cases where the petitioners were kept in reformatory/senior model schools the applications can be scrutinized and forwarded

to Government only when they produce official documentary evidence such as Court Order, Arrest Warrant, copy of F.I.R., Certificate from the

Model School., Dismissal Order, etc.,

4. In view of the positions stated above and in the absence of such documentary evidence viz., jail sufferings certificates for age proof, FIR details,

arrest warrant, court order etc., your request for grant of the State Freedom Fighters Pension cannot be complied with.

8. Learned Counsel appearing for the petitioner has submitted that even though the order of this Court, dated 27.06.2006, made in W.P. No.

37187 of 2003 is very clear, directing the respondent to consider the claim of the petitioner for the grant of the State Freedom Fighters Pension in

the light of the recommendation of the second respondent in Na.Ka.Ou2-40511, dated 22.02.1999, the respondent had wilfully attempted to

circumvent the order by giving new reasons for the rejection of the petitioner's claim. Thus, the respondent is liable to be punished for contempt of

the orders passed by this Court on 27.06.2006.

9. However, the learned Counsel appearing on behalf of the respondent had submitted that the respondent had never intended to wilfully disobey

the orders passed by this Court, as alleged by the petitioner. In fact the letter, dated 11.09.2006, issued by the respondent is only in accordance

with the directions issued by this Court by its order, dated 27.06.2006. Since the petitioner is not eligible for the State Freedom Fighters Pension,

the petitioner's claim has been rejected.

10. Based on the submissions made by the learned Counsel appearing on behalf of the petitioner, as well as the respondent, this Court is of the

considered view that the order passed by the respondent in his Letter No. 16341/PP.III/2006-04, dated 11.09.2006, is based on the reasons

stated therein. No cause or reason is shown by the petitioner to hold the respondent liable for committing contempt. Therefore, from the facts and

circumstances of the case, it is clear that the respondent has not wilfully disobeyed the order, dated 27.06.2006, passed by this Court, in W.P.

No. 37187 of 2003. However, it is made clear that it is open to the petitioner to challenge the said letter issued by the respondent, on 11.09.2006,

in the manner known to law. For the reasons stated above, the contempt petition is closed. No costs.