

WP No. 29353 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-10-2025

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

WP No. 29353 of 2025

1. Thillai Lokanathan
D/o Shanmuga Thevar, 12/14,
Mylapooran Street, Royapettah,
Chennai 600 014

Petitioner(s)

Vs

1. The Under Secretary
Ministry Of Home Affairs, Freedom
Fighters And Rehabilitation Division,
Ff(p) Section, II Floor, NDCC II
Building, Jaisingh Road, New Delhi
110 001

Respondent(s)

PRAYER

Writ petition filed under Article 226 of the Constitution of India to issue a writ of declaration to declare Clause 5.2.5 of the Guidelines for disbursement of Central Samman Pension 2014 which excludes the divorced daughters from claiming the benefits of the scheme as illegal, irrational and violative of the Article 14 and 21 of the Constitution of India. (PRAYER AMENDED VIDE



ORDER DATED 09.09.2025 MADE IN WMP.38239/2025 IN WP.29353/2025
BY VLNJ)

WEB COPY

For Petitioner(s): A.P.Surya Prakasam
N. Abiragan

For Respondent(s): M/s.R.Rajesh Vivekananthan,
Deputy Solicitor General Of
India For Sole Respondent
Memo Dt.12/08/2025
Addl Counter Affidavit Filed

ORDER

The petitioner seeks transfer of freedom fighter's pension under the "Swatantarta Sainik Samman Pension Scheme, 1980", from the petitioner's deceased mother, to the petitioner's account.

2. The following facts are undisputed:

The petitioner's father was one, Shri Shanmuga Thevar. He was a businessman and a freedom fighter from Burma. He had joined the force, which fought for the freedom of the Country from the British Colonialism. He joined the forces of the Indian National Army in Burma, which was lead by none other



than Netaji Subhash Chandra Bose. On account of his passion for this Country's freedom, he was arrested by the British Forces and imprisoned in the Rangoon

Jail, Burma for a period of six months. By the time of his release, the family had been reduced to impoverished circumstances and therefore, instead of residing in Burma, they shifted their residence back to the mainland in India. The petitioner's mother, Tmt. Lakshmi, was granted pension by both, the State, as well as the Central Government. At the ripe old age of 83 years, Tmt. Lakshmi passed away.

3. During her lifetime, the petitioner's hand was given in marriage to one, Mr. Lokanathan, a Singapore Citizen. The marriage resulted in the birth of two children. The petitioner was met with cruelty at the hands of her husband, constraining her to secure a divorce and come back to this Country, after leaving her children's custody to her husband in Singapore. She had been residing with her mother till her mother's death. On her death, she applied for pension under the aforesaid pension scheme, seeking transfer of her deceased mother's pension into her account.



WEB COPY

4. She had also sought for pension from the State of Tamil Nadu. She filed a writ petition in W.P. No.10344 of 2023, challenging the rejection of her request for pension by the State of Tamil Nadu. By an order dated 09.12.2024, the said writ petition was allowed with the following observations:

"22. The respondents have never, in the first instance refused to grant and extend the dependent family pension. There was an other issue, namely whether the petitioner was actually in financial trouble or not. The Revenue Inspector was directed to cause an enquiry and very unfortunately, he returned back stating that the petitioner was not available. The jurisdictional Thasildar had however filed a report. He had very clearly stated that the petitioner's medical condition is pathetic and that she is suffering with 70% to 90% of blockage in heart and is also quite aged and requires support. She requires that support not because of her individual capacity but in recognition of the sacrifices made by both parents. Her father suffered incarceration for more than 6 months. Her mother was suffered incarceration for a month. They both suffered incarceration for the cause of this country and while



WEB COPY

WP No. 29353 of 2025



fighting against the British to obtain freedom in this country. There could be no better eligible person than the petitioner herein. The impugned proceeding is therefore set aside and struck off."

5. Mr. A.P. Surya Prakasam, informs that this order has now become final as the State of Tamil Nadu has preferred an appeal, which is yet to be numbered.

6. This writ petition relates to the grant of pension by the Central Government. The petitioner states that, as she was dependant on her father when he was alive, and thereafter, on her mother till 2013, she has to be treated as a dependent of her parents, and be granted pension. She pleads that she is suffering from acute ill health and does not have financial support from anyone else. As she was not granted pension, she was before this Court by way of writ petition.

7. This Court entertained the writ petition and issued Rule Nisi on 11.08.2025. Mr. R. Rajesh Vivekananthan, learned Deputy Solicitor General



took notice on behalf of the respondent. Mr. R. Rajesh Vivekananthan has filed a detailed counter.

8. The simple plea of the Union of India is that, in terms of the pension scheme, for a daughter to be eligible as a dependent, she has to satisfy two conditions. One of which is that, she must have no independent source of income and that she must not be married. He relies upon clause 5.2.3 and 5.2.5 of the Revised Policy Guidelines issued by the Ministry of Home Affairs in the year 2014 to the effect that widowed / divorced daughters are not entitled for Samman Pension. He pleads that there is no right to seek pension, and that as the petitioner is not covered within the scope of the scheme, she is not entitled for the benefit granted under the scheme.

9. With the leave of the Court, Mr. A.P. Surya Prakasam amended the prayer, challenging clause 5.2.5 of the guidelines for disbursement of Swatantarta Sainik Samman Pension of the year 2014. A detailed affidavit has also been filed by the respondent to the amended prayer. With the pleadings



having been complete, I took up the writ petition for disposal.

WEB COPY

10. Mr. A.P. Surya Prakasam points out that, in so far as the second criterion insisted upon by Mr. R. Rajesh Vivekananthan - namely, that the dependent is in impoverished circumstances - is concerned, the issue has already been settled by the report of the jurisdictional Tahsildar and has been recorded in the order of this Court in W.P. No.10344 of 2023. The relevant portions have already been extracted hereinabove.

11. Insofar as the entitlement of the pension to the petitioner is concerned, Mr. R. Rajesh Vivekananthan states that the Supreme Court and other High Courts have held that a divorced daughter is not entitled to maintenance. He relies upon the following Judgments:

i. State of H.P. and Another Vs. Jafli Devi reported in 1997 (5) SCC 301;

ii. Pushpaben Maganlal B. Harijan Vs. Union of India reported in 2005 Supreme (Guj) 149;



WEB COPY

iii. *Tulsi Devi Vs. Union of India and Another in C.W.P. No.1504 of 2019 dated 18.07.2019 in the High Court of Himachal Pradesh, Shimla;*

iv. *Karthiyayani Janaki and Others Vs. Union of India reported in 2018 SCC Online Ker 8275;*

v. *The Director of Treasuries in Karnataka and Another Vs. V. Somyashree in Civil Appeal No.5122 of 2021 dated 13.09.2021;*

vi. *Union of India Vs. Laxmibai and Another in Civil Appeal No.2119 of 2004 dated 03.08.2011.*

12. Per contra, Mr. A.P. Surya Prakasam brings to my notice, two judgments, which have interpreted "Swatantarta Sainik Samman Pension Scheme, 1980". The first of those Judgments are *Khajani Devi Vs. Union of India and Others reported in 2016 SCC Online P&H 15867* and *Union of India Vs. Kolli Uday Kumari in Review Petition No.21 of 2022 in LPA No.476 of 2021 dated 20.01.2023*. On the basis of these Judgments, he pleads that to distinguish between unmarried dependent daughter and a divorced dependent daughter, is an artificial differentiation without any reference passed and hence,



pleads for the writ petition to be allowed.

WEB COPY

13. I carefully considered the submissions of both sides and have gone through the records, as well as, the Judgments cited by both the learned counsel.

14. As already stated, the petitioner's father and mother were freedom fighters. It is also not in dispute that the petitioner is in impoverished circumstances. The only ground on which the petitioner is sought to be denied the pensionary benefits is that, she underwent a marriage and did not remain unmarried, as long as her father was alive.

15. The Counter Affidavit filed on behalf of the Union of India states that, on account of the marriage that has taken place, a lady is entitled for maintenance from her husband and not from her father and is consequently, disqualified. In my view, this does not answer the issue that has already been resolved in *Khajani Devi's* case.



16. In ***Khajani Devi's*** case too, the petitioner was a daughter of a freedom fighter. She was the sole surviving heir and entirely dependent on her father.

WEB COPY

She had been denied pension under similar circumstances, stating that a divorced daughter cannot be treated as a dependent on her parents. The plea that had been raised by the Union of India was initially accepted by a learned Single Judge, but on appeal, it was rebuffed with the following directions:

"5. The underlying object in the clause of the Scheme listing eligible dependents is that only one be granted the pension. Therefore, the authorities have to construe the admissibility of benefit from that angle. It is not the case that the daughters are excluded altogether. An unmarried daughter finds mention in the list of eligible dependents. It would, thus, be a travesty to exclude a divorced daughter. There would be no rationality to the reason that the unmarried daughter can be included in the list of eligible dependents and a divorced daughter would stand excluded, particularly when she is the sole eligible dependent and thus, qualifies for the benefit, which is concededly made admissible only to one dependent. Even otherwise, we are of the opinion that a beneficial Scheme such as the one in hand should not be fettered or constructed by a rigorous



WEB COPY

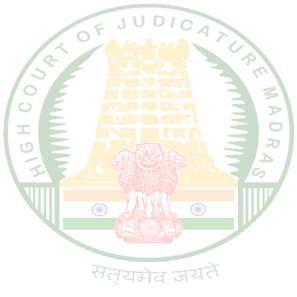
WP No. 29353 of 2025



interpretation which tends to deprive the claimants of the benefit to result in virtual frustration or negation of the laudable motive of the Scheme itself. We also notice that the Ministry of Defence has issued instructions dated 14.12.2012 (on record as Annexure P8) which included a divorced daughter in the category of eligible dependents for grant of liberalized/special family pension beyond 25 years. We may extract the same herebelow:

"2. The above matter is considered by the Government and it has been decided in consultation with Department of P&PW that unmarried/widowed/divorced daughter shall also be eligible for grant of liberalised/special family pension beyond 25 years of age subject to fulfillment of other prescribed conditions as hitherto fore."

6. Both the liberalized/special family pension and Swatantarta Sainik Samman Pension Scheme are intended to honour the valour of the uniformed people who laid down their lives or suffered for the cause of the country. We would, thus, not place any demeaning interpretation on the Scheme to deprive the unsung heroes of the country of



WEB COPY

WP No. 29353 of 2025



benefits meant to ensure a life of dignity to their dependents.

7. With the aforesaid observations, we accept the appeal and direct that the benefit of Swatantarta Sainik Samman Pension Scheme shall be admissible to the divorced daughter as well. Consequently, letter (Annexure P5) and Show Cause notice (Annexure P7), by which the pension was stalled, stand quashed."

17. The Union of India did not agree with this view and preferred an appeal to the Supreme Court, in the case titled ***Union of India Vs Khajani Devi and Others in Special Leave Petition (Civil) Diary No(s).17706 of 2017***. By an order dated 27.09.2019, the Supreme Court dismissed the SLP by a speaking order, which is extracted hereunder:

"We have heard learned counsel for the parties. We are of the view that the impugned order adopts a progressive and socially constructive approach to give benefits to daughter who was divorced treating her at parity with the un-married daughter. We fully agree with this view.



WEB COPY

No ground for interference is made out. The special

leave petition is accordingly dismissed."

18. After having lost the litigation before the Supreme Court, the Union of India filed a review before the Delhi High Court, which had taken a similar view in ***Kolli Uday Kumari's*** case.

19. A Division Bench headed by Mr. Justice Rajiv Shaktiher, following the view taken in the ***Khajani Devi's*** case, dismissed the petition filed by the Union of India and held that a divorced daughter would have to be treated on par with an unmarried daughter, and be benefited with the Freedom Fighters Pension Scheme.

20. When these aspects were pointed out to Mr. R. Rajesh Vivekananthan, he states that the Judgments referred to by him covered the field. A careful perusal of the two Judgments that he relies upon in ***Jafli Devi's*** case and ***Laxmibai's*** case, show that they were not under the freedom fighters pension



WEB COPY

scheme, but were interpreting the compassionate employment schemes, which has been devised for the purpose of employment by the State of Himachal Pradesh and the State of Karnataka, respectively. Here is a case, where the petitioner is not seeking employment, but pension.

21. The pension is being granted by the Union of India in recognition of the hardship that had been undergone by freedom fighters during the independence movement. To compare such hardship with compassionate appointment, in my view, would not be appropriate.

22. Hence, I am of the view that these two judgments in ***Jafli Devi's*** case and ***Laxmibai's*** case do not come to the rescue of the Union of India. In so far as the Judgment in ***Tulsi Devi's*** case and ***Karthiyayani Janaki's*** case referred to above are concerned, both the Judgments have not taken into consideration the view of the Supreme Court in ***Khajani Devi's*** case extracted above.

23. It was not a case where the SLP had been dismissed without reasons. The Supreme Court has categorically held that, the view taken by the Punjab



and Haryana High Court is a progressive and socially constructive approach,

which gives benefits to the divorced daughters and has treated them on par with

unmarried daughters.

24. When the Supreme Court has spoken, Judicial discipline requires that I adopt the same view and not attempt to distinguish the same, as sought to be done by the learned Deputy Solicitor General. Since, the view of ***Khajani Devi's*** case has been approved by the Supreme Court, and as the circumstances in that case are similar to the case on hand, I am of the view that the writ petition should succeed. Accordingly, the writ petition is allowed and the impugned order is quashed.

25. The petitioner is entitled to pension from the date of her application, i.e., from 27.01.2023. The respondents are granted eight weeks time to do the needful.

26. The respondent shall forward the papers to the State of Tamil Nadu forthwith. The State of Tamil Nadu shall cause such enquiry as is necessary



under law, and submit a report as to whether the petitioner is in impoverished circumstances and whether, she was dependent on her parents during their

WEB COPY

lifetime, within a period of four weeks thereafter. On receipt of the report from the State of Tamil Nadu, the Central Government shall pass appropriate orders within a period of four months from the date of receipt of the said report.

No Costs.

22-10-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

ab



WP No. 29353 of 2025



WP No. 29353 of 2025

WEB COPY

To

1. The Under Secretary
Ministry Of Home Affairs, Freedom
Fighters And Rehabilitation Division,
Ff(p) Section, II Floor, NDCC II
Building, Jaisingh Road, New Delhi
110 001



WEB COPY

WP No. 29353 of 2025



V.LAKSHMINARAYANAN J.

ab

WP No. 29353 of 2025

22-10-2025