

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

WP(C).No. 15101 of 2005 (W)

PETITIONER(S):

**S.PRIYADARSHINI
B.VIKRAMAN NAIR, KOCHUVEEDU, PATHIRAPALLY
MUKKOLA P.O., THIRUVANANTHAPURAM.**

**BY ADVS.SRI.T.MADHU
SRI.B.K.RAJAGOPAL**

RESPONDENT(S):

**1. THE UNION OF INDIA
REPRESENTED BY THE SECRETARY
THE DEPARTMENT OF HOME AFFAIRS, NEW DELHI.**

**2. DEPUTY COMMISSIONER OF POLICE,
IIIBN DAP, NEW DELHI.**

**R,R1,R2 BY ADV. SRI.C.S.MANILAL, CGC
R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R BY SRI.JOHN VARGHESE, ASSISTANT SG**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONERS EXHIBITS:

- EXT.P1 COPY OF THE POSTMORTEM REPORT DTD. 22.10.99**
- EXT.P2 COPY OF THE COMMUNICATION ISSUED BY THE 2ND
RESPONDENT DTDD. 2.3.05**
- EXT.P3 COPY OF THE COMMUNICATION DTD. 5.11.05.**

RESPONDENTS EXHIBITS:

- ANNEXURE I COPY OF THE BIRTH CERTIFICATE DTD. 26.7.99 ISSUED BY
THE GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI.**
- ANNEXURE II COPY OF THE NOMINATION IN THE NAME OF THE
PETITIONRE BY VIKRAMAN NAIR, ISSUED BY THE DEPUTY
COMMISSIONER OF POLICE, 10TH BN., DELHI ARMED
POLICE, DELHI**
- ANNEXUREIII COPY OF LEGAL NOTICE DATED 11.4.2000 SENT ON BEHALF
OF MRS. SHANKUNTHALA M.P, W/O LATE CONSTABLE
VIKRAMAN NAIR TO THE 2ND RESPONDENT.**
- ANNEXURE IV COPY OF RELEVANT PORTION OF PENSION RULE**
- ANNEXURE V COPY OF LETTER DTD. 7.4.05 FROM THE PETITIONER TO
THE OFFICE OF THE DEPUTY COMMISSIONER OF POLICE, III
BN, DAP, NEW DELHI**

// TRUE COPY //

P/A TO JUDGE

SB

K. VINOD CHANDRAN, J.

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W.P.(C) No.15101 of 2005 - W

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Dated this the 10th day of December, 2015

J U D G M E N T

The petitioner is the legally wedded wife of one Vikraman Nair, who was working as a Constable under the 2nd respondent and who died on 19.10.1999. The petitioner applied for disbursal of the pensionary benefits as also family pension, which was declined by Ext.P3, on the ground that the deceased husband of the petitioner had one another wife, Sakunthala, in which the petitioner's husband, also had a son. Ext.P3 communication informed the petitioner that the petitioner would be paid $\frac{3}{4}$ th of the pensionary benefits and $\frac{1}{4}$ th would go to the son; the petitioner's husband had, in Sakunthala.

2. The learned Assistant Solicitor General also submits that the said Sakunthala had produced a succession certificate, in

which her son was shown as a legal heir of the deceased Vikraman Nair. In such circumstance, the petitioner cannot challenge Ext.P3 to the extent it grants $\frac{1}{4}^{\text{th}}$ of the pensionary benefits due to the son born to the deceased husband of the petitioner, outside his marriage.

3. However, the petitioner and her two sons, who are the other legal heirs is entitled to $\frac{3}{4}^{\text{th}}$ of the pensionary benefits, which shall be disbursed within three months from the date of production of a certified copy of this judgment. As to the family pension, the same is fully entitled to the petitioner. The mother of the other son; ie., Sakunthala, as facts disclose here is not entitled to pension, since her marriage if at all, was one when Vikraman Nair's marriage to the petitioner herein, was subsisting. Further Sakunthala, even going by the records, was not shown as a legal heir. The petitioner's pension application shall be considered and sanctioned within a period of six months from

today and the entire arrears paid within six months from the date of sanction. The petitioner shall also be entitled to receive the pension in future too.

The writ petition would stand allowed. No costs.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB/11/12/2015

// true copy //

P.A to Judge.