

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No. 9025 of 2011 (C)

PETITIONER(S):

RAGHAVAN.K GS NO.07014N COOK,
(RTD) RESIDING AT BADAREESA BHAVANAM, MUTHUKULAM,
MUTHUKULAM P.O., ALAPPUZHA DISTRICT. (DECEASED)

Addl. 2. SUDHAMANI
W/O.LATE RAGHAVAN.K., GS NO.07014N COOK,
(RTD) RESIDING AT BADAREESA BHAVANAM, MUTHUKULAM
MUTHUKULAM.P.O., ALAPPUZHA DISTRICT.SUPPLEMENTARY PETITIONER
IS IMPEADED AS LEGAL HEIR OF 1ST PETITIONER AS PER ORDER DATED
29/09/2011 IN IA NO.15294/2011.

BY ADVS.SRI.R.RAJASEKHARAN PILLAI
SMT.SABINA JAYAN
SMT.MINI.V.A.
SRI.R.SREEDHARAN NAIR

RESPONDENT(S):

1. THE UNION OF INDIA REPRESENTED
BY THE SECRETARY MINISTRY OF ROAD TRANSPORT
AND HIGH WAYS, BORDER ROADS DEVELOPMENT, BOARD
'B' WING, SENA BHAVAN, NEW DELHI-110 011.

2. THE DIRECTOR GENERAL,
BORDER ROADS, RING ROAD, DELHI CANTONMENT,
NEW DELHI-110 010.

3. THE CHIEF ENGINEER,
PROJECT DEEPAK, C/O.56 APO.

4. THE COMMANDER, HQ 21 BRTF (GREF)
C/O.56 APO.

5. THE OFFICER COMMANDING,
1651 PNR COY (GREF), C/O.56 APO.

6. THE COMMANDANT,
GREF RECORDS, DIGHI CAMP, PUNE-15.

7. THE CONTROLLER OF DEFENCE PENSION,
DRAUPATHI GHAT, ALLAHABAD.

Addl.8. SMT.SARA
W/O.JOSEPH, KARALI VILLAGE AND POST GEETHAM
DANTEWADA DISTRICT, CHATISGARH STATE, PIN - 494441.ADDL R8 IS
IMPEADED AS PER ORDER DATED 24/07/2012 IN IA 9761/2012.
R,R1-7 BY ADV. SRI.P.PARAMESWARAN NAIR,ASG OF INDIA
R1-R7 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.9025/2011

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE DEATH CERTIFICATE OF THE PETITIONER'S
1ST WIFE.

EXT.P2: COPY OF THE MARRIAGE DEED DATED 21/3/1994.

EXT.P3: COPY OF THE CERTIFICATE OF MARIAGE ISSUED BY THE AARATTUPUZHA
GRAMA PANCHAYAT.

EXT.P4: COPY OF THE RATION CARD OF THE PETITIONER.

EXT.P5: COPY OF THE PENSION PAYMENT OERDER ISSUED BY CD ALLAHABAD.

EXT.P6: COPY OF THE LETTER DATED 11/12/2009

EXT.P7: COPY OF THE LETTER DATED 26/11/2009 FROM THE 5TH RESPONDENT
TO THE PETITIONER.

EXT.P8: COPY OF THE LETTER DATED 10/12/2010 FROM THE 6TH RESPONENT TO
THE 5TH RESPONDENT.

EXT.P9: TRUE COPY OF THE REPRESENTATION DATED 3/12/2010 SUBMITTED BY
THE PETITIONER BEFORE THE 6TH RESPODENT.

EXT.P10: TRUE COPY OF THE REPLY DATED 3/2/2011 FROM THE 5TH
RESPONDENT TO THE PETITIONER.

EXT.P11: COPY OF THE DEATH CERTIFICATE OF THE PETITIONER.

RESPONDENTS EXHIBITS:

EXT.R4(a): TRUE COPY OF THE FAMILY DETAILS FURNISHED BY THE
PETITIONER.

EXT.R4(B): TRUE COPY OF THE COMBINED PHOTOGRAPHS OF THE PETITIONER
AND HIS WIFE.

EXT.R4(C): TRUE COPY OF THE RELEVANT EXTRACT OF REGULATION OF AMOUNTS
OF PENSIONS.

/TRUE COPY/ PS TO JUDGE.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No. 9025 OF 2011

Dated this the 2nd day of March, 2015

JUDGMENT

The writ petition was filed by one Raghavan who died pending the writ petition. He filed the writ petition for commanding the respondents to authorise the family pension to his wife Sudhamani. After the death of Raghavan, the writ petition is prosecuted by Sudhamani by herself getting impleaded as supplemental 2nd respondent.

2. While in service, in the service records of Raghavan, for drawing the family pension, legal heir was shown as one Sara as his wife. Ext.R4 (A) would show that in the pension records Sara's name was shown as the legal heir for drawing the family pension. The first petitioner Raghavan alleged that he had not legally married Sara and she is not entitled for any pension. The Establishment objected payment of pension to the 2nd petitioner Sudhamani on the ground that as per the records Sara is the legally wedded wife of the first petitioner and unless necessary documents are produced showing that Sara was divorced by the Raghavan, family pension cannot be authorised in the name of Sudhamani. It is submitted that Sara has not made any claim for family pension. The first

petitioner in the writ petition itself submitted that he married Sudhamani initially. Ext.P3 is the marriage certificate. Any relationship with Sara is not legally valid. Sara is also made a party in this writ petition by impleading her as additional 8th respondent. Even though service on her was completed by paper publication, Sara has not chosen to contest the matter.

3. Considering the affirmation made by the first petitioner Raghavan, that while filing the writ petition, he has legally married Sudhamani in accordance with the customs, and in the light of Ext.P3, I am of the view that the petitioners' request shall be accepted as Sara cannot raise a claim as a legal wife of Raghavan. Raghavan also made a request by Ext.P6 during his life time to change the name in the pension records for drawal of the family pension.

In the light of the above, the writ petition is allowed. There will be a direction to the Establishment to release the family pension in the name of Sudhamani. Needful shall be done within a period of three months from the date of receipt of a copy of this judgment.

Sd/-

**A.MUHAMED MUSTAQUE,
Judge.**

dpk

/True copy/ PS to Judge.

DAMA SESHADRI NAIDU, J.

W.P.(C).No. OF 201

Dated this the 20th day of February, 2015

JUDGMENT

The Heard the learned counsel for the petitioner and the learned Government Pleader for respondents 1 to 4, apart from perusing the records. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

**DAMA SESHADRI NAIDU,
Judge.**

dpk

dpk

