

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

WP(C).No. 17929 of 2012 (M)

PETITIONER(S):

**SMT. N.K MANI, AGED 58 YEARS
W/O LATE T.T. GOPI, THITTAYIL VEEDU
ELAMKULAM KOCHI 682020
NOW RESIDING AT MOLATHU VEEDU, ALINCHUVADU
IDUKKI COLONY P.O, CHERUTHONI, IDUKKI**

**BY ADVS.M/S.VARGHESE & JACOB
SRI.VIVEK VARGHESE P.J.
SRI.VARUGHESE M EASO
SRI.XAVIER CHERIAN
SRI.VENKATESH GOPI**

RESPONDENT(S):

- 1. COCHIN PORT TRUST
REPRESENTED BY CHAIRMAN, COCHIN PORT TRUST
KOCHI 682009**
- 2. DEPUTY CONSERVATOR,
COCHIN PORT TRUST, KOCHI 682009**
- 3. THE DIRECTOR,
INSTITUTE OF HUMAN RESOURCES DEVELOPMENT
PRAJOE TOWERS, VAZHUTHACAUD, THIRUVANANTHAPURAM 695014**

**R1 & 2 BY ADV. SRI.K.ANAND (SR.)
R1 & 2 BY ADV. SMT.LATHA KRISHNAN
R BY SRI.V.A.MOHAMMED, SC, IHRD**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S) EXHIBITS

- EXT. P1** TRUE COPY OF THE LETTER NO B3/ F/ PENSION/TTG/04D DATED 03-01-2005 BY THE 2ND RESPONDENT
- EXT. P2** TRUE COPY OF THE REPLY LETTER NO EB3/16152008/HRD DATED 24TH APRIL 2008 BY THE 3RD RESPONDENT
- EXT. P3** TRUE COPY OF THE MARRIAGE CERTIFICATE DATED 12-06-2008 ISSUED BY THE KERALA PULAYODHARANA SAMAJAM, CHILAVANNUR- KADAVANTHRA, KOCHI 20
- EXT. P4** TRUE COPY OF THE LETTER DATED 03-11-2008 BY THE 3RD RESPONDENT TO THE PRINCIPAL, MODEL POLYTECHNIC, IDUKKI
- EXT. P5** TRUE COPY OF THE LEGAL HEIRSHIP CERTIFICATE NO K/ DIS. 1644.08/A5 DATED 16-03-2009 ISSUED BY THE TAHSILDAR, KANAYANNUR
- EXT. P6** TRUE COPY OF THE LETTER NO EB2/1615/2008/HRD DATED 29TH MAY 2009 ISSUED BY THE 3RD RESPONDENT

RESPONDENTS' EXHIBITS

- ANNEXURE R1(A)** COPY OF THE LETTER BEARING NO.A3/326/2002/MPP, DTD.15.12.2004 FROM THE PRINCIPAL, MODEL POLYTECHNIC COLLEGE, PAINAVU, IDUKKI TO THE DEPUTY CONSERVATOR, COCHIN PORT TRUST
- ANNEXURE 1** COPY OF THE PERSONAL MEMORANDUM OF THE PETITIONER.

// TRUE COPY //

P A TO JUDGE

SB

K. VINOD CHANDRAN, J.

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Dated this the 19th day of November, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that she has not been disbursed the family pension, on the death of her husband, who had retired from the 2nd respondent. The petitioner's husband retired on 01.08.1995, voluntarily and had been drawing pension, when he expired on 15.04.2003. The application made by the petitioner, the wife of the deceased pensioner was rejected by Ext.P1. The rejection was on the ground that the service book maintained by the employer of the petitioner, showed the name of her husband as B.Sivaram.

2. The statement filed by the present employer of the petitioner, the 3rd respondent produces two forms, in which the father/husband's name is shown as B.Sivaram. Annexure R1(a) is the personal memorandum dated 15.10.2004, wherein the

name of her guardian/husband is shown as B.Sivaram. Likewise in Form A nomination also, the petitioner showed the father's/husband's name as B.Sivaram. The petitioner submits that the same was entered in the records of the employer only since she was accompanied by the said B.Sivaram, when first joining employment and inadvertently his name was shown as that of the guardian accompanying the petitioner.

3. This Court is inclined to accept the said contention especially looking at the other documents produced by the petitioner. A legal heirship certificate has been issued to the petitioner by the Tahsildar, Kanayannur as is indicated at Ext.P5. The legal heirship certificate shows that the heirs of the deceased T.T.Gopi are the petitioner, the wife and two sons and a daughter.

4. Further, even going by the statement filed by the 1st respondent, the deceased employee had indicated the wife's name in his service records as N.K. Mani, the petitioner herein. The employee had also issued a letter to the 1st respondent on

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12.07.1990 contending that his wife was residing separately, due to personal problem. Such personal problems cannot disentitle the legally wedded wife, from the amounts due as family pension after the death of her husband, if they remained legally wedded till his death. There is nothing to show that the petitioner was divorced from her husband nor even that the petitioner had entered into a subsequent marriage after the husband's death.

5. On such reasoning, this Court is unable to sustain Ext.P1. Ext.P1 would stand set aside. The 1st respondent is directed to sanction the family pension to the petitioner and disburse the entire amounts within a period of three months from the date of receipt of a certified copy of this judgment.

The writ petition would stand allowed.

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

SB/20/11/2015

// true copy //

P.A to Judge.