

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 24669 of 2011 (G)

PETITIONER(S):

**KAVERI S, 21 YEARS,
W/O.LATE RATHEESH, NOW RESIDING AT KAVERI KRISHNA
THEVANNOOR PO, KOTTARAKKARA TALUK, KOLLAM.**

BY ADV. SRI.SYAM J SAM

RESPONDENT(S):

- 1. DEPUTY INSPECTOR GENERAL OF POLICE
CRPF, GROUP CENTRE, CRPF, PALLIPPURAM
TVPM-691501.**
- 2. DIRECTOR GENERAL OF POLICE, DTE,
GENERL, CRPF, CGO COMPLEX
LODHI ROAD, NEW DELHI010**
- 3. INSPECTOR GENERAL OF POLICE, S, CRPF,
NEAR MLA/MP COLONY ROAD-10-C GAYATHRI HILLS
JUBILEE HILLS, HYDERABAD -33.**
- 4. SAROJAM, W/O.SUKUMARA PILLAI,
REMA MANDIRAM, AMBALAMUKKU, ELAMADU PO
KOLLAM NOW SHE IS RESIDING AT 60/02 CPWD QUARTERS
KK NAGAR, CHENNAI-78.**

R1-R3 BY ADV. SRI.P.PARAMESWARAN NAIR,ASG OF INDIA

R4 BY ADV. SRI.ALEXANDER GEORGE

R1-R3 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

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

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APPENDIX

PETITIONER(S) EXHIBITS :

- EXT.P1 THE TRUCCOPY OF OTHE MARRIAGE CERTIFICATE OF THE
PETITIONER AND LATE RATHEESH.
- EXT.P2 THE TRUE COPY OF THE TREATMENT CERTIFICATE ISSUED TO THE
THE PETITIONER.
- EXT.P3 TRUE COPY OF THE REPRESENTATIN PREFEREED BY THE
PETITIONER TO THE FIRST RESPONDENT.

RESPONDENTS' EXHIBITS:

- EXT.R1(a): COPY OF THE TRANSLATED COPY OF THE FIRST INFORMATION
REPORT.
- EXT.R1(b): COPY OF THE DEATH CERTIFICATE DATED 22.08.2011.
- EXT.R1(c): COPY OF THE FINAL ORDER DATED 12.10.2011.

//True copy//

P.A. to Judge

ds

K. VINOD CHANDRAN, J.

W.P.(C) No. 24669 of 2011 (G)

Dated this the 11th day of November, 2015

J U D G M E N T

The petitioner is the legally wedded wife of one Ratheesh, who was employed in the Central Reserve Police Force (C.R.P.F.) as Constable (General Duty). The husband of the petitioner died in an accident on 11.8.2011. Just prior to the accident, the marriage of the petitioner was registered under the Special Marriage Act, as is seen from Ext.P1. It is seen that the marriage itself was registered on 16.6.2011 and the death occurred within two months thereafter on 11.8.2011. The petitioner is also said to have been carrying, at the time of the death of her husband and a child is born to her. The petitioner, by the above writ petition, claims the retirement benefits and pension of the deceased from respondents 1 to 3.

2. The learned Central Government Standing Counsel relies on the counter affidavit dated 11.4.2012 to contend that the nomination available in the Service Rules is of his mother Smt.S. Sarojam, who is the 4th respondent herein. Both the petitioner and the 4th respondent has approached the authority for the retirement benefits and the pension. The deceased having neither filed any intimation about his marriage nor filed a proper nomination, the official respondents have a difficulty insofar as the disbursing the retirement benefits, since that would be in supersession of the nomination available in the records, which the employee had given at the time of joining duty.

3. It is trite that a nominee does not get a right to the estate of the deceased and in the event of the same being confined to a money claim, the right is only to get disbursement of the same; which the nominee would hold in trust for the other legal heirs. Hence, even if the amounts are disbursed to the 4th respondent, the 4th respondent

cannot claim any right, as such, over the entire amounts.

4. Admittedly, the son of the 4th respondent had entered into a marriage with the petitioner just two months prior to his death. The same is evidenced by Ext.P1 certificate. A child is said to have been born to the petitioner in the wedlock. Hence, the petitioner and the child along with the mother of the deceased are Class-I heirs, as per the Hindu Succession Act, 1955. Hence, it may not be necessary for this Court to relegate the petitioner to the Civil Court especially since the disbursement of the retirement benefits has not been made till now.

5. With respect to the pension payment, Sub rule (10-A) of Rule 54 of C.C.S. Pension Rules, reads as under:

“(10-A) (a) Family pension to the parents shall be payable if the parents were wholly dependent on the Government servant immediately before his or her death and the deceased

Government servant is not survived by
a widow or an eligible child.”

The parents of a deceased employee would be entitled to pension only if the Government servant is not survived by a widow or an eligible child. Hence, the 4th respondent cannot have any claim to the pension. The 4th respondent also does not have a contention that her deceased son is survived by any other legal heir.

6. In such circumstance, the following directions are issued:

(i) The petitioner shall appear before the 1st respondent with the original of Ext.P1 certificate as also the birth certificate of the child born to the petitioner. The 1st respondent shall, on production of such original certificates, verify the same and sanction 1/3rd of the retirement benefits to the petitioner herein; 1/3rd of the benefits shall be issued by way of cheque in the name of the child, a minor, and the cheque handed over to the 2nd respondent. The balance

1/3rd shall be disbursed to the 4th respondent.

(ii) The pension, going by the C.C.S. Pension Rules, shall be the entitlement of the petitioner and the same shall be computed and Pension Payment Order, for family pension, if eligible, issued in the name of the petitioner and all arrears paid as expeditiously as possible. The petitioner's claim for compassionate appointment, in accordance with the rules, as applicable to the C.R.P.F., shall be kept open.

Writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE