

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 36941 of 2015 (P)

PETITIONER:

**BEENA MUNDATHANATHU MANI,KARUKAYIL HOUSE,POOVARANI P.O.,
KOTTAYAM DISTRICT, KERALA, NOW RESIDING AT 69
REDLANDS LANE, FAREHAM, HAMPSHIRE
UNITED KINGDOM-PO 141 HQ.**

BY ADV. SRI.GEORGEKUTTY MATHEW

RESPONDENTS:

- 1. THE UNION OF INDIA,
REP:BY ITS SECRETARY FOR MINISTRY OF HOME AFFAIRS,
MANSING ROAD, NEW DELHI-110 001.**
- 2. THE CENTRAL PENSION ACCOUNTING OFFICER,
CENTRAL PENSION ACCOUNTING OFFICE, TRIKOOT-II, BHIKAJI
CAMA PALACE, NEW DELHI-110 066.**
- 3. PAY AND ACCOUNTS OFFICER-II (DELHI POLICE),
PAY AND ACCOUNTS OFFICE, MINISTRY OF HOME AFFAIRS
MANSING ROAD, NEW DELHI-110 001.**

**R1-R3 BY ADV. SMT.SREEKALA K.L., CGC
BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 36941 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1: TRUE COPY OF THE JUDGMENT DATED 02/06/2010 IN W.P.(C)
 NO.8441/2010.**
- EXT.P2: TRUE COPY OF THE LAWYER NOTICE DATED 21/06/2013.**
- EXT.P3: TRUE COPY OF THE ORDER DATED 02/07/2013 ISSUED BY THE 2ND
 RESPONDENT TO THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 36941 of 2015 (P)

Dated this the 16th day of December, 2015

J U D G M E N T

The petitioner, now residing abroad, on the basis of the permanent residence at Kottayam, has filed the above writ petition under Article 226 of the Constitution of India, claiming pensionary benefits to her minor child. The petitioner was once before this Court, when she was permanently residing in the address at Allapuzha, with a writ petition; the judgment of which is produced at Ext.P1.

2. The petitioner was the wife of a Constable, who died in-harness while serving with the Delhi Police. The petitioner's husband is said to have died in the year 1997. The petitioner was paid the entire dues, eligible to the petitioner, as the wife of the deceased Constable.

3. The family pension was not paid to her since she was remarried. The petitioner, by the earlier writ petition, claimed family pension for her minor child. This Court in Ext.P1 merely recorded the statement of Delhi Police, which contended that the petitioner had not produced the required documents, on which alone the claim for pension could be considered. The writ petition itself was disposed of on 2.6.2010, recording the statement of the respondent and directing consideration, if such documents are produced. The petitioner has again moved the Writ Court, allegedly, for implementation of Ext.P1 judgment, presumably, because the time for filing a contempt is already over. After the judgment of the year 2010, the petitioner is said to have issued a lawyer's notice as on 2013 upon which Ext.P3 recommendation was made by the Ministry of Finance also.

4. It is to be noticed that the death of the employee, on which cause of action the family pension is claimed, occurred in the year 1997, specifically on 8.11.1997. The claim, which arose in 1997, was sought to be agitated in the year 2010. Further, this Court is not convinced that any part of the cause of action arises in the State of Kerala. At least, in the earlier instance, the petitioner was a resident in the State of Kerala. The petitioner, admittedly, is now residing abroad. The respondents are all at New Delhi. In such circumstance, this Court is of the opinion that the jurisdiction under Article 226 of the Constitution of India cannot be exercised going by the binding precedents in **Kusum Ingots & Alloys Ltd. v. Union of India and another - (2004) 6 SCC 254** and **Indian Maritime University v. Viswanathan - 2014 (4) KLT 798 (FB)**.

5. This Court earlier showed an indulgence insofar as recording the statement made by the respondent before this Court and directed compliance. Even now nothing is brought on record to show that the compliance was made, except for a laconic notice sent, produced at Ext.P2, that too, after three years from the date of disposal of the earlier writ petition. Now, again, the petitioner, after two years, seeks revival of the petitioner's child's claim.

6. The petitioner has been making sporadic efforts to get the pension for her minor child and such intermittent attempts have resulted in passage of considerable time. The delay also stands against the petitioner.

For all the above reasons the writ petition is found to be devoid of merit and the same is dismissed in limine.

Sd/-
K.VINOD CHANDRAN,
JUDGE