

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.17748 of 2015

K.Devadoss

Petitioner

vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation (CBE) Ltd,
No.37, MJettupalayam Road,
Coimbatore-641 043

2.The General Manager,
Tamil Nadu State Transport Corporation,
(Coimbatore) Limited, Erode Region,
Chennimalai Road, Erode-1

Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus directing the respondents for payment of monthly pension to the petitioner and also for including the petitioner's wife name i.e. D.Shanthi as his legal heir as per the service record maintaining by the 1st respondent, following the judgment rendered by this Court in W.P.No.17442 of 2012 on 22.09.2014, within a time frame.

For Petitioner : Mr.B.K.Girishneelakantan

For Respondents : Mr.P.Kannan Kumar

ORDER

The petitioner was employed as a driver in the respondent State Transport Corporation. He has attained superannuation on 30.10.2013. The petitioner married one Mrs.R.Vijayalatchumi in the year 1977. Out of the wedlock, no issues were born. The petitioner divorced the said R.Vijayalatchumi, as per the customary practice in the year 1981, in the presence of the relatives, elders and panchayatdars and a decree to that effect was also passed by the Subordinate Judge, Sankari, on 24.02.2014, in H.M.O.P.No.4 of 2014. The relevant portion of which is usefully extracted hereunder:

"(i) that the petition be and the same is hereby allowed and that the marriage between the petitioner and the respondent solemnized on 2.2.1977 at Soundamman Koil, Ammapet, Salem, is hereby dissolved by a decree of divorce."

2. The petitioner married one D.Shanthi in the year 1981 and she gave birth to one daughter and three sons. The first wife of the petitioner, viz., R.Vijayalatchumi also got married subsequently. An Indemnity Bond sworn to by the said R.Vijayalatchumi stating that on 08.01.1981 the marriage between her and the petitioner K.Devadoss got dissolved as per the customary practice before the village Panchayat; that she married one Renganathan and gave birth to three children; since their divorce, which was obtained in the presence of Panchayatdars, was not accepted by the employer of the petitioner, they obtained a decree of divorce by filing H.M.O.P.NO.4 of 2014, before the Subordinate Court, Sankari, on 24.02.2014; that there is no relationship between her and the petitioner; that she has no objection in the second wife of the petitioner, namely, D.Shanthi, getting the petitioner's pensionary benefits and family pension in future and that she will not claim any right over the petitioner's property. She has also agreed that the second wife namely D.Shanthi will be appointed as nominee of the petitioner. Even though in the service records of the petitioner, the name of the first wife was deleted and the second wife D.Shanthi's name has been included, the respondents denied the monthly pension to the petitioner and also denied to include the name of the second wife of the petitioner as nominee for getting family pension in future, after the petitioner's life time. The petitioner has made representations to the first respondent, however, the same have not been considered so far. Hence, the petitioner is before this Court seeking a direction to the respondents for payment of monthly pension and also for including his wife's namely, viz., D.Shanthi, as his legal heir, in the service record maintained by the 1st respondent.

3. The petitioner has produced the Indemnity Bond sworn to by the first wife, namely, R.Vijayalatchumi, wherein, it is stated that she has no objection to give all the benefits to the second wife of the petitioner, namely, D.Shanthi, as the marriage between her and the petitioner got dissolved in 1981 itself as per the customary practice of the community. The Indemnity Bond is found enclosed at page No.16 of the typed set of papers. The decree of divorce granted by the Subordinate Judge, Sankari, in H.M.O.P.No.4 of 2014 is also found enclosed at page No.14 of the typed set of papers.

4. In the light of the above, the respondents are not correct in denying the monthly pension to the petitioner and also denying to recognise the second wife of the petitioner, namely, D.Shanthi, as the legal heir of the petitioner.

5. Further more, the first wife of the petitioner, namely, D.Shanthi herself gave an undertaking that the marriage between her and the petitioner K.Devadoss got dissolved as per the customary practice in the year 1981 before the village Panchayat. The respondents are not in a position to dispute the same. In these circumstances, I am of the view that the petitioner cannot be deprived of the benefits as sought for.

6. In the light of the above, the writ petition stands disposed of with a direction to the respondents to grant monthly pension to the petitioner and also include the petitioner's wife name i.e. D.Shanthi as his legal heir, in the service record maintained by the respondent Corporation, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

msk

To

1.The Managing Director,
Tamil Nadu State Transport Corporation (CBE) Ltd,
No.37, Mettupalayam Road,
Coimbatore-641 043

2.The General Manager,
Tamil Nadu State Transport Corporation,
(Coimbatore) Limited, Erode Region,
Chennimalai Road, Erode-1

1 cc to Mr.P. Kannan Kumar, Advocate, Sr. 31109

W.P.No.17748 of 2015

GGK (CO)
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