

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.07.2015

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.No.21354 OF 2015

M.Pushpam

[PETITIONER]

Vs

- 1 State of Tamilnadu
rep. by its Secretary to Government
Municipal Administration & Water Supplies Dept.
Fort St. George, Chennai-600 009.
- 2 The Assistant Director
Panchayat Union Pension
Local Fund Audit
Kuralagam 4th Floor
Chennai-108
- 3 The Commissioner
Gudiyatham Panchayat Union
Vellore District.

[RESPONDENTS]

Writ petition is filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the entire records connected with the order of the 2nd respondent made in Mu.Mu.No.29845/Oo.O.O.Ko(9)/2014 dated 18.11.2014 and quash the same and consequently direct the respondents to pay the Family Pension to the petitioner from the date of her husbands death on 28.4.2014.

For Petitioner : Mr.S.Sathia Chandran

For Respondents : Mr.V.Jayaprakash Narayana
-R1 & R2
Spl. Government Pleader

Mr.R.Ravichandra - R3

O R D E R

With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal at the admission stage itself.

2. According to the petitioner, her husband joined the Indian Army during 1943, after serving about 16 years, he was discharged from Indian Army and he was getting pension for the services rendered by him in the Indian Army. As an ex-serviceman, he joined as last grade servant in Kandili, Thirupathur Taluk, Vellore District in 1961 and during 1981 he was transferred to the third respondent Panchayat Union and retired from service on 31.07.1983. Thereafter, he was receiving pension, until his death on 28.4.2014.

3. While so, the petitioner, who is the wife of the deceased Government servant made an application for family pension. But, the same was declined by the second respondent by an order dated 18.11.2014, on the ground that the petitioner is getting military family pension. Aggrieved over the said order, the petitioner has come forward with the present writ petition.

4. The learned counsel for the petitioner in support of his submissions that the petitioner is entitled to both Military pension and Service Pension, relied on the following decisions:

- (i) UNION OF INDIA v. G.VASUDEVAN PILLAY, [1995 (2) SCC]
- (ii) HARYANA S.E.B. v. AZAD KARUR, [2000 (2) SCC 227]
- (iii) TAMIL NADU ARASU POKKUVARATHU MADURAI THOZHILALAR SANGAM, REP. BY ITS PRESIDENT AND ANOTHER v. GOVERNMENT OF TAMIL NADU REP. ITS SECRETARY, TRANSPORT DEPARTMENT AND OTHERS [2010 (2) CWC 555].

5. Following the aforesaid decisions, I have also rendered a Judgment in the case of SARASWATHY V. THE ACCOUNTANT GENERAL OF TAMIL NADU, OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (ACCOUNTS & ENTITLEMENTS) & ORS [CDJ 2015 MHC 3877] and held that receipt of military pension could not be put against the widow for family pension payable by the Department where the ex-serviceman served.

6. In the light of the aforesaid decisions, the impugned order is quashed and the second respondent is directed to pass fresh orders relating to payment of family pension to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

The Writ Petition is allowed on the above terms. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

- 1 State of Tamilnadu
rep. by its Secretary to Government
Municipal Administration & Water Supplies Dept.
Fort St. George, Chennai-600 009.
- 2 The Assistant Director
Panchayat Union Pension
Local Fund Audit
Kuralagam 4th Floor
Chennai-108
- 3 The Commissioner
Gudiyatham Panchayat Union
Vellore District.

Tm(co)
cp 03.08.2015

W.P.No.21354 of 2015

सत्यमेव जयते
WEB COPY