

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2015

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.29219 of 2015

S.Malathy

... Petitioner

Vs.

- 1 State of Tamil Nadu
Rep by its Principal Secretary to Government
Finance (Pension) Department Fort St.
George Chennai 9
 - 2 The Office of the Accountant
General (Accounts and Entitlements) 361
Anna Salai Chennai 18
 - 3 The Principal
Government Arts College (Autonomous)
Kumbakonam 612 001 Thanjavur District
- ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent to consider and pass appropriate orders sanctioning Family Pension to the petitioner in respect of petitioners late husbands service with the 3rd respondent College with effect from 24.9.2012 as per the letter No.01 (05)/2010-D (Pen/Policy) dt 17.1.2013 of the Department of Ex-Servicemen Welfare under the Ministry of Defence Government of India within a time frame fixed by this Honourable Court.

For Petitioner	: Mr.S.Sathiachandran
For Respondents	: Mr.N.Srinivasan for R1 and R3
	Additional Government Pleader
	Mr.V.Vijaya Shankar for R2

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner would state that she is a widow of late.Subramanian who served in the Indian Army between 28.08.1971 and 22.10.1987 as Havildar and after discharge joined the third

respondent college as a non-teaching staff and he was also made permanent and due to unfortunate circumstances, he died in harness on 04.12.2007 leaving behind the petitioner, a son and a daughter.

3.The petitioner would further state that on account of the fact that the petitioner's husband has served in the Indian Army for nearly 16 years, she has been paid with military family pension and after the demise of the husband, she approached the third respondent to take steps to pay family pension and it was forwarded to the second respondent and vide letter dated 12.05.2009, the second respondent has informed the third respondent that her request for family pension is likely to be rejected for the reason that the petitioner is already drawing military family pension.

4.The learned counsel appearing for the petitioner has drawn the attention of this Court to the letter/ proceedings of Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi dated 17.01.2013 in No.01(05)/2010-D(Pen/Policy) and would submit that in the light of the said communication, the petitioner is entitled to get family pension in respect of the services rendered by her husband in the third respondent college also. The learned counsel appearing for the petitioner has also drawn the attention of this Court to the order dated 13.08.2015 made in W.P.No.25107 of 2015 passed by this Court and prays for appropriate orders.

5.Heard the submissions of Mr.S.Sathiachandran, learned counsel appearing for the petitioner, Mr.N.Srinivasan, learned Additional Government Pleader who accepts notice on behalf of the respondents 1 and 3 and Mr.V.Vijaya Shankar, learned counsel who accepts notice on behalf of the second respondent.

6.It is relevant to extract paragraph 3 to the end of the letter/ proceedings of Ministry of Defence, Department of Ex-Servicemen Welfare, New Delhi dated 17.01.2013 in No.01(05)/2010-D(Pen/Policy) which reads as follows:

"3. The above recommendation of the Committee has been accepted by the Government and the President is pleased to decide that the families of Armed Forces pensioners who got re-employed in Civil Departments/PSUs/Autonomous bodies/Local Funds of Central/ State Governments after getting retired from military service and were in receipt of military pension till death, shall be allowed to draw Family pension from military side in addition to the family pension, if any, authorized from the re-employed civil department subject to fulfillment of other prescribed conditions as hitherto.

4. The provisions of this letter shall be applicable to the Armed Forces personnel who got discharged/retired/invalided out from service with effect from 24th September 2012 or thereafter. Benefit of these provisions shall also be allowed in past cases however the financial benefit shall be granted from 24th September 2012 only.

5. Pension Regulations of the three Services shall be amended in due course.

6. This issues with the concurrence of Finance Division of this Ministry vide their ID No.PC1/10 (12)/2012/FIN/PEN dated 10.01.2013
Hindi version will follow.

Your faithfully

sd/-

(Malathi Narayanan)

Under Secretary to the Government of India"

7.This Court in the light of the above facts and circumstances, directs the second respondent to take into consideration the above said communication dated 17.01.2013 and consider the claim of the petitioner and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

8.The writ petition is disposed of accordingly. No costs.

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s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

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3 The Principal
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+ 1 cc to M/s.V.Vijay Shankar, Advocatge SR 51045

+ 1 cc to Mr.S.Sathia chandran, Advocate SR 50584

+ 1 cc to the Govt.Pleader SR 50935

ug(co)
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