

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.4405 of 2015 &
M.P.Nos.1 and 2 of 2015

Dhanabakkiyam

.. Petitioner

vs.

- 1 The Government of Tamil Nadu
Rep. by its Secretary to Government,
Tamil Development and Information (Tha.Va.1-2)
Department,
Fort St. George Chennai-9.
- 2 The Director of Tamil Development
Halls Road, Egmore,
Chennai-600 008.
- 3 The District Collector
Salem District, Salem.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, calling for the entire records relating to the impugned order passed by the 3rd respondent in his proceedings Muu.Mu.No. 7881/2014 E1, dated 13.09.2014; to quash the same and consequently to direct the respondents to disburse the arrears of the pension together with monthly pension by calculating the same from 21.11.2011 till date to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondents: Ms.P.Rajalakshmi
Government Advocate

ORDER

Heard both sides.

2. The petitioner, claims that she is the wife of late A.M.Somasundaram, who participated in the agitation for merger of

Tamil areas in Northern Belt of Tiruthani and Tirupathi launched by Late Ma.Po.Sivagnanam and remanded to judicial custody in the year 1953 and 1960. According to the petitioner, the Government of Tamil Nadu brought about a pension scheme for such participants. Though the petitioner's husband approached the respondents for sanction of pension, the same was not sanctioned to him. Therefore, he preferred a writ petition in W.P.No.21800 of 2011 along with similarly placed persons and this Court vide order dated 21.11.2011 disposed of the batch of writ petitions directing the District Collector to verify the claim made by the petitioners therein and thereafter, if found eligible directed to sanction the Tamil Scholar Pension to the petitioners. Since the said direction was not complied with by the respondents, the husband of the petitioner preferred Contempt Petition before this Court in Contempt Petition No.797 of 2013 and it is only thereafter, the Government complied with the order passed by this Court and issued the G.O.Ms.No.115 [Tamil Development and Information (Tha.Va.1-2) Department dated 25.04.2013 sanctioning pension to the husband of the petitioner.

3. It is submitted by the learned counsel for the petitioner that the said Soma Sundaram died on 13.07.2013. Therefore, the petitioner herein made a representation for grant of family pension under the scheme claiming to be the wife of late Soma Sundaram and the petitioner's application was considered; verifications were made and report also was submitted to the District Collector. In the report, it is stated that the petitioner-Dhanabakkiyam is the second wife of said Soma Sundaram and it is also stated that the said Soma Sundaram's first wife pre-deceased him. However, by the impugned order, the request of the petitioner for grant of pension has been rejected on the ground that the petitioner is not the direct legal heir of deceased Soma Sundaram. Even in the impugned order, the report of the Tahsildar has been referred to, wherein the petitioner has been stated as the second wife of the said Soma Sundaram.

4. From the above facts, it is clear that the first wife of late Soma Sundaram had pre-deceased him and the same was also not disputed. It is also submitted that the petitioner married the late Soma Sundaram 27 years ago. In order to substantiate that the petitioner is the only surviving legal heir of deceased Soma Sundaram, she had produced the copy of ration card issued during the year 2005; further in the Voter's Identity Card issued by the Election Commission, the petitioner's name finds place as the wife of the said Soma Sundaram and in the Aadhar Card also the petitioner's husband name is shown as Soma Sundaram. These records would conclusively prove that the petitioner is the wife of late Soma Sundaram. That apart, there is no rival claim and the first wife even as per the report of the Tahsildar pre-deceased the said Soma Sundaram.

5. For all the above reasons, the impugned order dated 13.09.2014 passed by the third respondent in rejecting the request of the petitioner for grant of pension is set aside and the writ petition is allowed. The third respondent is directed to verify the documents now placed by the petitioner before this Court, which are Government records and if conclusively proved that she is the wife of late Soma Sundaram and also taking note of the fact that the first wife is no more and no rival claim has been made, shall sanction the eligible family pension to the petitioner, within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

vj2

To

1 The Secretary to Government,
Tamil Development and Information (Tha.Va.1-2)
Department,
Fort St. George Chennai-9.

2 The Director of Tamil Development
Halls Road,
Egmore,
Chennai-600 008.

3 The District Collector
Salem District, Salem.

1 cc to Mr.C. Prakasam, Advocate, Sr. 9726

1 cc to Government Pleader, sr. 9647

WP.No.4405 of 2015

VGI (CO)

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