

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.20243 of 2016

K.Muniyammal

... Petitioner

Vs.

1. State of Tamil Nadu
Rep by its Principal Secretary to Government
Finance (Pension) Department
Fort St.George
Chennai 600 009.
2. The Office of the Accountant
General (Accounts and Entitlements)
361,Anna Salai
Chennai 600 018.
3. The Divisional Fire Officer
Vellore Division
Vellore and District. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to consider and pass appropriate orders sanctioning Family Pension to the petitioner in respect of her late husband's service with the 3rd respondent-Fire Station with effect from 24.09.2012 as per the letter No.01 (05)/2010-D (Pen/Policy) dated 17.01.2013 of the Department of Ex-Servicemen Welfare under the Ministry of Defence Government of India within a time frame that may be fixed by this Court.

For Petitioner : Mr.S.Sathiachandran

For Respondents : Mr.M.S.Ramesh, AGP for RR1 and 3
Mr.V.Vijaya Shankar for R2

O R D E R

By consent, the writ petition is taken up and disposed of at the admission stage itself.

2. Mr.M.S.Ramesh, learned Additional Government Pleader takes notice on behalf of respondents 1 and 3 and Mr.V.Vijaya Shankar, takes notice on behalf of R2.

3.The case of the petitioner is as follows:

(i) The petitioner would state that she is a widow of late.P.Kuppusamy Naidu who served in the Indian Army between 16.05.1953 to 16.10.1970 as Sappar. Thereafter, he joined the third respondent Department as a Fire Man on 31.03.1972. He got superannuated on 31.05.1991 and therefore, from 01.06.1991 he was drawing pension at the rate of Rs.375/- per month vide Pension Pay Order No.A407177. In such circumstances, he died on 07.03.1999, leaving behind the petitioner, two sons and four daughters.

(ii) The further case of the petitioner is that on account of the fact that the petitioner's husband has served in the Indian Army for nearly 17 years, she has been paid with military family pension, after the demise of the husband. Since her late husband also worked with the third respondent-Department, she approached them to take steps to pay family pension, however her request was rejected on the ground that since she was already drawing Military Family Pension, she is not eligible for Civil Family Pension. Hence the present writ petition.

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 Department also. He also brought to the notice of this Court, the order passed by this Court in W.P.No.29219 of 2015 dated 16.09.2015, wherein in an identical circumstances, this Court directed the respondents therein to consider the claim of the petitioner in the light of the proceedings dated 17.01.2013 and prayed that a similar order may be passed in this writ petition also.

5. At this juncture, it is relevant to extract the operative portion of the order passed by this Court in W.P.No.29219 of 2015 dated 16.09.2015, which was referred to by the petitioner.

"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."

6. Considering the facts and circumstances of the case and in the light of the earlier orders passed by this Court, without going into the merits of the matter, the second respondent is directed to consider the claim of the petitioner and pass appropriate 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.

7. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government
of Tamil Nadu
Finance (Pension) Department
Fort St.George
Chennai 600 009.
2. The Office of the Accountant
General (Accounts and Entitlements)
361,Anna Salai
Chennai 600 018.
3. The Divisional Fire Officer
Vellore Division
Vellore and District.

+1cc to Mr.V.Vijaya Shankar, Advocate, S.R.No.33451
+1cc to Mr.S.Sathia Chandran, Advocate, S.R.No.33098
+1cc to the Government Pleader, S.R.No.33298

सत्यमेव जयते

W.P.No.20243 of 2016

pvs(CO)
srg(19/07/2016)

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