

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.32386 of 2016

R.Thilagavathy

... Petitioner

vs.

1.The Director of Pension,
D.M.S. Compound,
Chennai- 6.

2. The Account General,I,
281, Anna Salai,
Chennai - 18.

3. The Assistant Educational Officer,
Nagapattinam.

4. The Treasury Officer,
Nagapattinam

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to disburse the pension amount of the petitioner, which was due from March 2012 to till date and to continue to pay the same till her life time in view of the death of her husband late A.Rajavelu, worked as Headmaster in Panchayyat Union Elementary School, chinna Thukmbur, Kivelur Village, Nagapattinam District.

For Petitioner : Mr.R.T.Shyamala

For Respondents : Mr.R.Venkatesh,
Govt. Advocate.

ORDER

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

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to disburse the pension amount of the petitioner, which was due from March 2012 to till date and to continue to pay the same till her life

time in view of the death of her husband late A.Rajavelu, worked as Headmaster in Panchayyat Union Elementary School, Chinna Thukmbur, Kivelur Village, Nagapattinam District.

3. It is the case of the petitioner that the husband of the petitioner, late A.Rajavelu, who worked as a Headmaster in Panchayat Union Elementary School, Periya Thumbur, Kilvelur Taluk, retired from service in the year 1990 and he got pension till his date of death on 21.09.2008. In the pension book, he gave the name of the petitioner to receive the pension amount and her photo was also affixed in the Pension Book. The pension was credited in the petitioner's account till February 2012 and thereafter, the same was stopped. Before granting pension, the 3rd respondent called the petitioner and verified with the photo affixed in the pension book. When she approached the 3rd respondent to enquire about the stoppage of the pension amount, she was informed that she is not eligible to get pension. Hence, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Government Advocate, who has taken notice on behalf of the respondents.

5. The learned Government Advocate by filing a detailed counter stating that the petitioner is the second wife of the late A.Rajavelu. He died on 21.09.2008. Now, one Tmt.Krishnammal gave a complaint along with the proof of Legal Heir certificate and Marriage Invitation card claiming that she is the first wife of late A.Rajavelu, and hence a show cause notice has been issued to the petitioner to explain that whether she is the first wife or second wife, but no reply has been received from the petitioner and that is the reason why the family pension has been stopped. The learned Government Advocate also submitted that the second respondent has instructed the petitioner to approach the 4th respondent and explain her original marital status and only after getting explanation from the petitioner, the recommendation letter will be forwarded to the second respondent by the third respondent authorizing the petitioner for family pension. Thus, he sought for dismissal of the writ petition.

6. I have carefully gone through the entire material available on record. Now, the respondents have stopped grant of pension to the petitioner based on the complaint given by one Krishnammal, who is said to be the first wife of the late A.Rajavelu. In fact the copy of the legal heir certificate was also produced before this Court, wherein the said Krishnammal was shown as first wife and the petitioner was shown as second wife. Hence, this Court is of the opinion that the dispute

between the parties can be decided only by a civil Court. Since this Court cannot conduct any roving enquiry in this writ petition with regard to the marital status of the petitioner and her entitlement to get the pension benefit, this writ petition is liable to be dismissed.

7. The writ petition is dismissed accordingly. No costs. However, the petitioner is at liberty to approach the civil Court for appropriate relief.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mrp

To

- 1.The Director of Pension,
D.M.S. Compound,
Chennai- 6.
2. The Account General,I,
281, Anna Salai,
Chennai - 18.
3. The Assistant Educational Officer,
Nagapattinam.
4. The Treasury Officer,
Nagapattinam

+lcc to Mrs. R.T. Shamala, Advocate, S.R.No.61084

+lcc to the Government Pleader, S.R.No.61573

LRS(CO)

Eu 08.12.16

W.P.No.32386 of 2016