

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.35237 of 2016

1.S.Sasikala

2.C.Saravana Prabhu

... Petitioners

Vs.

1. Secretary to Government
Motor Vehicle Maintenance Department
Secretariat, Fort St.George
Chennai-600 009

2. Director
Motor Vehicle Maintenance Department
Velachery,
Chennai-600 042

3. The Accountant General
(Accounts & Entitlement)
DMS Campus, Teynampet
Chennai-18

... Respondents

Prayer: Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the second respondent to disburse the family pension to both the petitioners considering their representation dated 21.1.2016.

For Petitioners : Mr.D.Lourthu Paul Belson

For Respondents : Mr.C.Jagadish
Special Government Pleader
for R.1 and R.2

ORDER

The petitioners have come up with the present writ petition for a mandamus, directing the second respondent to disburse the family pension to both of them considering their representation dated 21.1.2016.

2. It is the case of the petitioners that the first petitioner got married with one Chandrasekaran on 22.6.1989 and out of the wedlock, the second petitioner was born. From the date of marriage, the first petitioner and his husband Chandrasekaran lived together. While so, the said Chandrasekaran passed away on 25.10.2010. Before death, the said Chandrasekaran served as Regional Deputy Director, Motor Vehicles Maintenance Department, Velacherry, Chennai until his superannuation on 30.6.2005 and till his death, he received all the retirement benefits. Before marrying the first petitioner, the said Chandrasekaran married one C.Premakumari on 1.12.1974. Since the said C.Premakumari deserted him, he filed a petition in FCOP No.1408 of 1993 before the Additional Family Court, Chennai and got an order of divorce on the ground of desertion. Now, the petitioners obtained legalheirship certificate from the office of the Tahsildar, Mylapore, Triplicane Taluk, Chennai, wherein it has been clearly stated that the petitioners are the only legal heirs of late Chandrasekaran. Based on the said certificate, the petitioner sent a representation dated 15.2.2011 to the second respondent to give family pension of late Chandrasekaran to them. But, the second respondent refused to give the same. Aggrieved over the same, the petitioners filed a suit in O.S.No.1006 of 2012 before the XVIII City Civil Court, Chennai, as against the respondents herein, to declare that they are the legal heirs of late Chandrasekaran and the said suit was decreed in their favour, against which, an appeal was preferred by the respondents and the same was dismissed. Now, narrating all the facts, the petitioners sent a representation dated 21.1.2016 to the respondents requesting them to disburse the family pension. But, till date, there is no reply from the respondents. Hence, left with no other alternative, the petitioners have come up with the present writ petition for the relief set out earlier.

3. I have heard the learned counsel appearing for the petitioners and the learned Special Government Pleader, who has taken notice on behalf of the respondents 1 and 2. In view of the limited order to be passed hereunder, this Court is of the view that notice is not necessary to the third respondent.

4. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioners, this Court directs the petitioners to send a copy of the representation dated 21.1.2016 along with a copy of this order to the second respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the second respondent is directed to consider the

representation of the petitioners seeking family pension and pass appropriate orders, on merits and in accordance with law, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

sbi

To

1. The Secretary to Government
Motor Vehicle Maintenance Department
Secretariat, Fort St.George
Chennai-600 009
2. The Director
Motor Vehicle Maintenance Department
Velachery,
Chennai-600 042
3. The Accountant General
(Accounts & Entitlement)
DMS Campus, Teynampet
Chennai-18

+2cc's to Mr.D.Lourthu Paul Belson, Advocate, S.R.No.57271
+1cc to the Government Pleader, S.R.No.57536

सत्यमेव जयते

W.P.No.35237 of 2016

VD(CO)
CA(08/11/2016)

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