



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Writ Petition (MD)No.17526 of 2015

P.Balamani

... Petitioner

Vs.

1. The State of Tamil Nadu
represented by its Secretary to Government,
Home Department,
Secretariat,
Fort St. George,
Chennai 600 009.
2. The Principal Accountant General
(Accounts and Entitlements),
O/o. The Principal Accountant General,
Tamil Nadu,
361, Anna Salai,
Chennai 600 018.
3. The II Additional District Judge for CBI Cases,
District Court Campus,
Madurai 625 020.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 herein to grant family pension to the petitioner with all arrears at the revised rate from the date of death of petitioner's husband from 09.08.2008 together with nominal interest within a reasonable period as prescribed by this Court.

For Petitioner	: Mr.P.Krishnasamy
For R1	: Mr.A.K.Baskara Pandian Special Government Pleader
For R2	: Mr.P.Gunasekaran
For R3	: Mr.T.S.Mohammed Mohideen

**O R D E R**

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

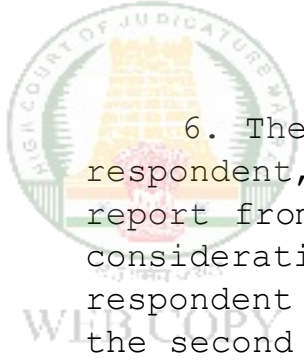
By consent, the writ petition is taken up for final disposal.

2. The petitioner is a widow of Late V.Paramasivam, who was employed as Record Clerk in the Office of the Special Court for CBI Cases. According to the petitioner, her husband, after completion of Army Service, was posted as Office Assistant in the Judicial Magistrate Court, Thirumangalam and his service was also regularised from the date of his appointment i.e., on 23.01.1987 and got promotion as Record Clerk in the Office of the third respondent on 01.07.2004 and he worked in the same capacity till his date of death i.e., on 09.08.2008 and had completed more than 21 years of service. The petitioner, being the widow had applied for family pension before the Central Government for military service as well as before the State Government to the third respondent for civil pension. However, the third respondent did not choose to pass any order and therefore, the petitioner had submitted a representation lastly on 19.01.2011. The third respondent also requested for sanction of the said amount by addressing a letter to the second respondent in R.C.No. /2013 dated .04.2013 and the second respondent, vide communication dated 25.11.2013, has informed the third respondent that a clarification from the Government of Tamil Nadu is awaited. The grievance expressed by the petitioner is that thereafter, she has not been favoured with any order. Hence, she came forward to file this writ petition.

3. Mr.P.Gunasekaran, the learned counsel appearing for the second respondent has drawn the attention of this Court to Circular No.514, dated 05.09.2013, issued by the Office of the Principal Controller of Defence Accounts (Pensions), Alahabad and would submit that in terms of the said communication, the persons, who served in Armed Force are also entitled to pension on the civil side, if she is otherwise eligible and in the light of the same, appropriate orders may be passed.

4. Mr.A.K.Baskara Pandian, the learned Special Government Pleader appearing for the first respondent has drawn the attention of this Court to Rule 49(14) of the Tamil Nadu Pension Rules, 1978 and would submit that since the petitioner has received army pension and as such, in the light of the said Rule, she is not entitled to civil side pension.

5. This Court has considered the submissions made on either side and also perused the materials placed before this Court.



6. The fact remains that as per the communication of the second respondent, dated 25.11.2013, addressed to the third respondent, report from the Government is also awaited. This Court, taking into consideration the above facts and circumstances, directs the first respondent to respond to the proposal/clarification sought for by the second respondent, by taking into the consideration the Circular No.514, dated 05.09.2013 issued by the Office of the Principal Controller of Defence Accounts (Pensions), Draupadighat, Alahabad - 211014 and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

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

Sd/-

Assistant Registrar(As)

/True Copy/

Sub Assistant Registrar

To

1. The State of Tamil Nadu
represented by its Secretary to Government,
Home Department,
Secretariat,
Fort St. George,
Chennai 600 009.
 2. The Principal Accountant General
(Accounts and Entitlements),
O/o. The Principal Accountant General,
Tamil Nadu,
361, Anna Salai,
Chennai 600 018.
 3. The II Additional District Judge for CBI Cases,
District Court Campus,
Madurai 625 020.
- +1cc to Mr.P.Krishnasamy, Advocate, SR.No.74612

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akv