



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2016

CORAM :

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P (MD) No.22172 of 2016

R.Manimegalai

... Petitioner

Vs.

1.The Government of Tamil Nadu,
rep.by its Secretary,
Health & Family Welfare Department,
St.George Fort,
Chennai - 9.

2.The Director of Medical Education,
O/o.Medical Education Department,
Chennai - 10.

3.The District Collector,
Thanjavur District,
Thanjavur.

4.The Dean,
Arasu Raja Mirasuthar Hospital,
Thanjavur.

5.R.Anushiya

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issue a Writ of Mandamus directing the Respondents to consider the petitioner's representation dated 16.09.2016 for settling the pension benefit of the petitioner's husband namely N.Rajendran and consequently direct the respondents to appoint the petitioner's daughter in any one of the post in the Respondents department as suitable for her qualification within a Stipulated period prescribed by this Court.

For Petitioner : Mr.K.Mahendran

For RR - 1 to 3 : Mr.T.S.Mohammed Mohideen
Additional Government Pleader

O R D E R

This Writ of Mandamus has been filed, seeking a direction to the respondents to consider the representation dated 16.09.2016, seeking settlement of pensionary benefit as well as compassionate appointment for the petitioner's daughter.



2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents 1 to 3.

3. The petitioner's husband Rajendran was working as Medical Assistant in the Government Arasu Raja Mirasuthar Hospital, Thanjavur. He died on 30.09.2015 leaving behind the petitioner and two daughters namely, R.Nandhini and R.Vinodhini.

4. The grievance of the petitioner is that she has given a representation dated 22.12.2015 to settle pensionary benefit and also seeking appointment on compassionate ground to the first daughter of the petitioner viz., R.Nandhini who is a diploma holder in Nursing Assistant. But the respondents neither settled the pensionary benefits nor considered the claim of the petitioner till 01.03.2016.

5. Reiterating the said claim, representations were given repeatedly but no response was forthcoming and therefore, this writ petition has been filed.

6. The learned counsel appearing for the petitioner submitted that the fifth respondent claims to be the second wife of the petitioner's husband and as such she is not entitled to any pensionary benefit and therefore, it is not necessary to further prolong the time by issuing notice to the fifth respondent, in this writ petition.

7. The learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that the respondents can be directed to consider the representation but at the same time, an opportunity of hearing can be given by R1 to R3 to the fifth respondent before taking final decision of this issue.

8. The learned counsel for the petitioner has relied upon a judgment of this Court reported in **2016(4)CTC 304 [K.Pasupathy vs. Shiyamala Devi and others]**, under which, it has been held that Rule 45(5)(i) of the Tamil Nadu Pension Rules, 1978 provides for pension to "wife or wives", has been held to be invalid.

9. The learned Additional Government Pleader would explain that the clause providing for 'wives' would be applicable in cases where, marriage took place prior to 1955 or to the wives where bigamy is permitted.

10. Under such circumstances, the respondents 2 to 4 are directed to consider the representation of the petitioner dated 16.09.2016 and at the same time, providing an opportunity of hearing to the fifth respondent before taking final decision of this issue. The respondents 2 to 4 are also directed to consider



the representation in the light of the judgment of this Court reported in **2016(4)CTC 304 [K.Pasupathy vs. Shiyamala Devi and others]** or any other decisions which may be relied upon by either side.

11. The writ petition is disposed of with the above direction. No costs. Consequently, WMP(MD)No.15879 of 2016 is closed.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Government of Tamil Nadu,
Health & Family Welfare Department,
St. George Fort,
Chennai - 9.

2. The Director of Medical Education,
O/o. Medical Education Department,
Chennai - 10.

3. The District Collector,
Thanjavur District,
Thanjavur.

4. The Dean,
Arasu Raja Mirasuthar Hospital,
Thanjavur.

+1 cc to M/s.K.Mahendran, Advocate in SR.No.70601

+1 cc to The Special Government Pleader in SR.No.71101

Mj

TTN/SS2-KSM/11.01.2017 : 3P-7C

W.P (MD) No.22172 of 2016
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