



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.22357 of 2016

and

W.M.P.(MD) No.16022 of 2016

Natarajan

... Petitioner

-vs-

1.The Accountant General (A & E),
361, Annasalai, Chennai.

2.The Assistant Elementary Educational Officer,
Kallal,
Sivagangai district.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 11.01.2010 in Pen 18/4/Pt.608/36588 of the 1st respondent and quash the same and consequently direct the first respondent to accept the petitioner's family pension proposal and to sanction the same to the petitioner.

For Petitioner	: Mr.J.Anandkumar
For R - 1	: Mr.P.Gunasekaran
For R - 2	: Mr.A.Muthukaruppan
	Additional Government Pleader

O R D E R

This Writ of Certiorarified Mandamus has been filed challenging the order dated 11.01.2010 passed by the first respondent.

2.Heard the learned counsel appearing for the petitioner; the learned counsel for the first respondent and the learned Additional Government Pleader for the second respondent. By consent the writ petition itself is taken up for final disposal at the admission stage.

3.According to the petitioner, he married one Sornavalli as per Hindu Rights and Caste Customs. Out of the said wedlock, two male children and one female children were born to them. Since there was a difference of opinion, they separated by customary



divorce. Subsequently, she married another person and the petitioner married one Kalyani and now he is living with the said Kalyani. Out of the said wedlock, three children were born to them. The petitioner retired from service on 30.06.2009 on attaining the age of superannuation. After retirement, the second respondent forwarded the family pension proposal to the first respondent on 05.05.2009, which was returned seeking clarification of details of family members. By the impugned order dated 11.01.2010, the first respondent has stated that separation from P.Sornavalli through mutual consent is not considered as legal, as it is not issued by any Court of law.

4. There seems to be a dispute between the second wife on one side and the first wife of the petitioner and her children on the other side.

5. Since the petitioner did not obtain a decree of divorce from a competent Court of law as stated in the impugned order, the impugned order cannot be stated to be illegal. Therefore, the challenge made to the impugned order is not acceptable and it is liable to be rejected.

5.1. The petitioner should have resorted to a resolution of the dispute through Mediation/Conciliation. As both the wives are not before this Court, this Court was not able to refer the dispute for Mediation. As there are children through both the wives, who are eligible for the retirement benefits, it is better that the dispute is resolved through Mediation and the respondents may advise the petitioner accordingly.

6. The writ petition is disposed of with the above observation. No costs. Consequently, WMP(MD)No.16022 is closed.

Sd/-

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To

1. The Accountant General (A & E),
361, Annasalai, Chennai.

2. The Assistant Elementary Educational Officer,
Kallal, Sivagangai district.

+1cc to M/s.J.ANANDKUMAR Advocate in SR. No.72239

+1cc to SPECIAL GOVERNMENT PLEADER in SR. No.72437

Mj



WEB COPY