



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2016

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

WEB COPY

Writ Petition (MD) No.6652 of 2016

and

W.M.P (MD) No.5764 of 2016

Pushpam

... Petitioner

Vs.

1.The Accountant General,
Accounts & Entitlements, Tamil Nadu,
861, Anna Salai,
Chennai.

2.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus certiorarified mandamus calling for the records pertaining to the order dated 21.05.2008 made in PEN 5/I/V 186-1627/PA/07-08/227 on the file of the Accountant General Accounts and Entitlements Tamilnadu 861 Anna Salai Chennai the first respondent herein and quash the same and consequently order payment of Family Pension to the petitioner.

For Petitioner : Mr.R.Sukumaran

For 1st Respondent : Mr.P.Gunasekaran

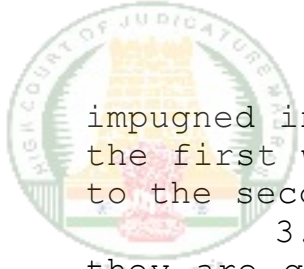
For 2nd Respondent : Mr.S.Bharathi

Government Advocate.

ORDER

The petitioner is the second wife of one deceased M.Veerachamy who retired from service in the year 1982. He died on 31.05.1997. After his death, the petitioner has applied for family pension. The authorities without verifying the facts had originally sanctioned the pension. However, when the petitioner wanted arrears of the pension, it is verified by the authorities that the service register of the deceased person had entered in the name of one Mariammal as first wife.

2.Admittedly, the marriage of the petitioner with the deceased had happened during the subsistence of the first marriage and she had already begotten two children out of the said wedlock. As the first wife is entitled to the family pension, the authorities by virtue of an order dated 21.05.2008 which is



impugned in the writ petition had apportioned the pension enabling the first wife to get 50% and the balance 50% to the children born to the second wife namely, the petitioner herein.

3. Since the parties in this writ petition are Hindus, they are governed by the Hindu Marriage Act, 1955. As per Section 16(3) of the Hindu Marriage Act, 1955, the children born out of the void marriage are entitled to claim benefits from the father. Applying the same, the impugned order has been passed. Therefore, there is no error or infirmity in the order passed by the first respondent. Accordingly, the writ petition is dismissed. No costs. Consequently, W.M.P(MD)No.5764 of 2016 is closed.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

1.The Accountant General,
Accounts & Entitlements, Tamil Nadu,
861, Anna Salai,
Chennai.

2.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

+1cc to M/s.P.Gunasekaran, Advocate SR.NO.19622
+1cc to the special Government Pleader SR.No.19290

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