



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2016

CORAM

THE HON'BLE Mr.JUSTICE R.SURESH KUMAR

W.P.(MD) No.19642 of 2013

P.Parvathi

...Petitioner

-vs-

1. The Superintendent Engineer,
Dindigul Electricity Distribution Circle (TNEB),
Meenakshi Naickenpatti,
Dindigul-2.

2. The Chief Internal Audit Officer,
Tamil Nadu Electricity Board,
Chennai.

3. The Executive Engineer,
Dindigul Electricity Distribution Circle (TNEB),
Batlagundu,
Dindigul District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records of the 1st respondent in Ka.No.018726/291/Ne.Pe-2/V3/Ko.Ku. Pension/2013 dated 17.08.2013 and quash the same and directing the respondents to sanction the family pension to the petitioner from April 2008 due to the death of the petitioner's husband S.Paraman on 28.03.2008 within a period stipulated by this Court.

For Petitioner : Mr. A. Haja Mohideen

For R1 to R3 : Mr.S. Dayalan

O R D E R

Challenging the order of the 1st respondent in Ka.No.018726/291/Ne.Pe-2/V3/Ko.Ku.Pension/2013 dated 17.08.2013 and for a consequential direction, directing the respondents to sanction the family pension to the petitioner from April 2008 due to the death of the petitioner's husband S.Paraman on 28.03.2008, the petitioner has come out with this writ petition.

2. The petitioner, who is claiming family pension, had approached the respondents and vide impugned order dated 17.08.2013, the first respondent has rejected the claim of the petitioner for family pension on the ground that since the first wife of the deceased Government servant was surviving, the petitioner, as the third wife, cannot claim family pension, as it goes against the provisions, namely, 49(7)(i) of the Tamil Nadu



Pension Rules. Challenging the said order, the present writ petition has been filed.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

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4. The learned counsel for the petitioner would contend that no doubt, the petitioner is the 3rd wife of her husband Late N.Paraman, who was working with the respondent Department and died. During his life time, his 2nd wife one Kannagi died on 15.08.1978 and first wife one Lakshmi died on 25.01.1989. Only thereafter, the petitioner got married the said Government servant, namely N.Paraman and out of the wedlock, the petitioner is having a daughter, by name Sathya, aged about 23 years. In this regard, the petitioner, even though produced death certificates of the first and 2nd wife as well as the death certificate of the husband of the petitioner, who died on 28.03.2008 and also the legal heir certificate issued by the concerned Tahsildar on 05.08.2009, the present impugned order was passed, which is unsustainable in law.

5. Per contra, the learned counsel for the respondents would contend that the petitioner, since admittedly claimed to be the 3rd wife of the deceased Government servant, she cannot be entitled to claim pension, as the said wedlock is not a valid one within the meaning of Hindu Marriage Act, 1955 and also the third wife cannot claim family pension of the deceased servant of the respondent Corporation under Rule 49(7)(1) of the Tamil Nadu Pension Rules.

6. This Court have considered the said rival submissions of both the parties.

7. Admittedly, the petitioner is the third wife of the deceased person, who was an employee of the respondent Corporation. The first and second wife died before 1989 and to that effect, death certificates had also been produced by the petitioner and only thereafter, the petitioner married the deceased employee and out of the wedlock, the petitioner is having a daughter. All these factors are disclosed in the death certificates as well as the legal heir certificates produced by the petitioner.

8. When that being so, the reason cited by the 1st respondent in the impugned order, as if the petitioner had married the employee during the subsisting wedlock of the other wives, is not valid. Moreover, the relevant rule of the Tamilnadu Pension Rules, namely, 49(7) does not prohibit paying the family pension to the petitioner, as the language used in 49(7a)(1) is as follows:

<https://hcservices.ecourts.gov.in/hcservices> 49.(7)(a)(i) *Where family pension is payable to more widows than one, the family pension shall be paid to widows in equal shares."*



9. In view of the said provision of the Tamil Nadu Pension Rules and the factors, which have been proved by the petitioner, atleast, prima facie, by showing the death certificates and legal heir certificate, this impugned order is not sustainable one and accordingly, it is quashed. Accordingly, the issue is now remanded back to the first respondent for reconsideration by considering the death certificate as well as legal heir certificate produced by the petitioner and pass suitable orders for disbursement of family pension to the petitioner and the needful shall be done as indicated above by the first respondent within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above observations and directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS)

To

1. The Superintendent Engineer,
Dindigul Electricity Distribution Circle (TNEB),
Meenakshi Naickenpatti,
Dindigul-2.
2. The Chief Internal Audit Officer,
Tamil Nadu Electricity Board,
Chennai.
3. The Executive Engineer,
Dindigul Electricity Distribution Circle (TNEB),
Batlagundu, Dindigul District.

+1cc to M/s.A.Hajamohideen, Advocate in SR.81449

W.P.(MD) No.19642 of 2013
15.12.2016

rr.

PBK/EM-MPA 05/01/2017 ::3P-5C: