

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.02.2017  
Delivered on : 28.03.2017

Coram

The Honourable Mr. JUSTICE K.K.SASIDHARAN,  
and  
The Honourable Mr.JUSTICE V.PARTHIBAN

W.P.No.15746 OF 2014

Balambal

... Petitioner

versus

1. Co-ordinating Director,  
CSIR (Council of Scientific & Industrial Research)  
Madras Complex,  
Taramani, Chennai - 600 113.
2. The Administrative Officer,  
CSIR Madras Complex,  
Taramani, Chennai - 600 113.
3. The Director General,  
Council of Scientific and Industrial Research,  
Anusandhan Bhavan,  
Rafi Marg, New Delhi - 110 001.
4. The Registrar,  
Central Administrative Tribunal,  
High Court Campus,  
Chennai - 600 104.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records of the 4th respondent herein i.e. The Registrar, Central Administrative Tribunal, Madras Bench, High Court Campus, Chennai-600 104, pertaining to O.A.No.1278 of 2011 dated 14.12.2012 and quash the same and direct the respondents 1 to 3 to disbuses pay Family Pension, arrears of family pension to the applicant/petitioner.

For Petitioner : Mr. N.Beulah John Selvaraj

For Respondents : Mr.B.Saraswati for R1 to R3

ORDER

V.PARTHIBAN, J.

This Writ Petition has been filed against the order passed by the Central Administrative Tribunal (in short, 'the Tribunal'), Madras Bench, in O.A.No.1278 of 2011 dated 14.12.2012 dismissing the OA filed by the petitioner herein.

2. The petitioner herein has approached the Tribunal seeking a direction to the official respondents to pay family pension and arrears on death of her husband, Late P.K.Purushotham on 12.09.2005. According to the petitioner, her husband was working as a Watchman under the official respondents having entered service on 1.12.1971 and on attaining the age of superannuation, the husband of the petitioner had retired on 31.10.2002 and subsequently, passed away on 12.09.2005. The petitioner claimed that she had been validly married to deceased P.K.Purushottaman and hence, she is entitled to family pension payable on death of her husband. It appears that the said P.K.Purushottaman originally married to one Saradamma and the said marriage took place on 18.6.1952. While the first marriage was in force, the said P.K.Purushottaman was said to have married the petitioner herein in May, 1968. Thereafter, it appears that Purushottaman, while he was alive had obtained a decree of divorce, dated 5.2.2004 against his first wife Tmt.Saradamma. It is the case of the petitioner that since the first marriage had ended in divorce and the petitioner's name having been entered in service Register of the deceased husband, she was entitled to all the retirement benefits like family pension etc. In support of her claim, she had also produced a succession certificate.

3. Per contra, on behalf of the official respondents, it was contended before the Tribunal that the petitioner was not legally wedded wife of the deceased Purushottaman as the marriage with the petitioner had taken place during the period when the first marriage was still in force. Hence, the alleged marriage is illegal and void ab initio. In fact, the husband of the petitioner was proceeded against by the Department for contracting second marriage when the first marriage was subsisting. The charge was proved and a penalty was also imposed on him which penalty had attained finality. The said departmental proceedings clearly established the fact that the marriage between the petitioner and late Purushothaman was not legal and cannot be a valid one in the eye of law.

4. In the above circumstances, the learned Tribunal correctly dismissed the original application stating that the

petitioner is legally ineligible for claiming payment of family pension. As against the order passed by the learned Tribunal, the present Writ Petition has been filed by the petitioner.

5. The learned counsel appearing for the petitioner would submit that she had produced Succession Certificate and her name has also been entered in the service record of the deceased and therefore, she was entitled to family pension as being legal heir of her deceased husband.

6. On the other hand, the learned counsel appearing for the respondents reiterated her submissions which were put forth before the Tribunal.

7. We are unable to accept the contention put forth by the learned counsel for the petitioner that the petitioner was legal heir of the deceased Purushothaman since admittedly, the marriage between the petitioner and said Purushothaman had taken place when the first marriage was subsisting and in force. Therefore, by no stretch of legal standards, the marriage between the petitioner and Purushothaman would be considered as legal and valid. In the absence of valid marriage, the petitioner has no legal status to claim any benefit which was otherwise payable to the petitioner's husband. The learned counsel for the petitioner had cited a decision of High Court of Patna in "Babita Devi versus Union of India and others" reported in CWJC No.6831 of 2011 in support of her claim for payment of family pension. We do not think that the facts of that case can be applied to the factual matrix of the present case.

8. In view of the above narrated, we do not find any merit in the contention of the petitioner and we therefore, do not see any infirmity in the order passed by the learned Tribunal in order to interfere with the same.

The Writ Petition, therefore, fails and it is dismissed. No costs.

-s/d-

Assistant Registrar

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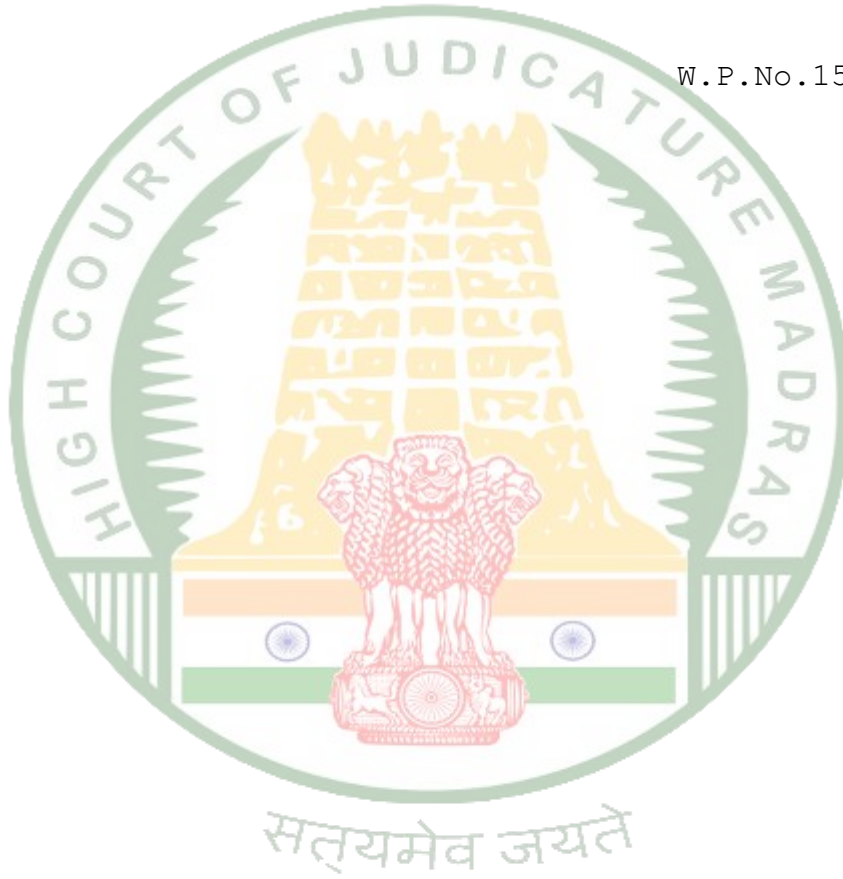
Sub-Assistant Registrar

1. The Registrar,  
Central Administrative Tribunal,  
High Court Campus,  
Chennai - 600 104.

+1 CC to Mr. B. Saraswathi Advocate sr 19070

W.P.No.15746 of 2014

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