

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.07.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.17648 of 2017

and

W.M.P.19148 of 2017

R.Rajathi

...Petitioner

Vs.

1. The Superintendent Engineer
TANGEDCO Ltd,
Nagapattinam Circle,
Nagapattinam District.

2. The Audit Officer,
TANGEDCO - Audit Wing,
144, Anna Salai,
Chennai -600 002

... Respondents

Prayer: Petition filed Under Article 226 of the Constitution of India to issue of Writ of certiorarified Mandamus, calling for the records pertaining to order in Ka No.728/Ni.Pi.3(v) 1/Ko.O.Koo/16 dated 02.07.2016 of the first respondent and quash the same; consequently direct the respondents to consider the grant of family pension to the petitioner with all retrospective arrears.

For Petitioner : Mr.R.Sreedharan

For Respondents:Mr.R. Varalakshmi

O R D E R

The relief sought for in this writ petition is to quash the order passed by the first respondent dated 02.07.2016.

2.On perusal of the order this Court is able to find out that the deceased employee late C.Rethinasamy, retired from services on 31.10.2002 and died on 01.10.2013.

3.However, the said deceased C.Rethinasamy married the writ petitioner as his second wife. It is stated in the impugned order that the deceased employee got a decree of divorce from the first wife on 07.10.2003. But, the second marriage with the

writ petitioner was solemnized on 19.08.1990. This fact is not disputed by the writ petitioner even in the affidavit filed by the him in Paragraph 2 which reads as follows:

"I respectfully submit that I am the wife of Late C.Rethinasamy, who was a retired Government Servant, employed in Tamilnadu Electricity Board, Nagapattinam, who got married me on 19.08.1990 as a second wife, out of wedlock, we gave birth to two female child namely, R.Karthika and R.Gayathri. My husband was retired from service on 31.10.2002, subsequently he died on 01.10.2013".

4. In view of the submissions made by the writ petitioner in his proof affidavit, admitting that the second marriage with the deceased employee was solemnized during the subsistence of the first wife. Therefore, the question of granting family pension as per Tamil Nadu Pension Rule, 1978 does not arise and there is no infirmity in the reasons stated in the impugned order and the reasons stated is very much in accordance with the legal principles in this regard. Hence, no consideration is required.

5. Accordingly, the writ petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kas/smn

To

1. The Superintendent Engineer,
TANGEDCO Ltd,
Nagapattinam Circle,
Nagapattinam District.

2. The Audit Officer,
TANGEDCO - Audit Wing,
144, Anna Salai,
Chennai - 600 002

+ 1 cc to Mr.R. Sreedharan, Advocate Sr.48493

+ 1 cc to Mr.R. Varalakshmi, Advocate SR.48598

W.P. No. 17648 of 2017

GJII(CO)

EU 26/7/17