

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.8555 of 2011

Srimathi Karupayee Ammal,
W/o.Late Palanisamy

.. Petitioner

Vs.

1.The Director,
Local Fund Audit,
4th Floor, Kuralagam,
Chennai-108.

2.The Commissioner,
Panchayat Union, Erode,
Erode District.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of Mandamus directing the respondents herein to sanction the family pension to the petitioner in respect of the service benefits of late husband Mr.C.Palanisamy, Office Assistant, under Pension Payment Order No.4064 (P.U.P) dated 20.08.1990 issued by the 1st respondent.

For Petitioner .. Mr.V.Manohar

For Respondent .. Mr.R.Rajendra Narasimhan,
Addl. Govt. Pleader for R1
Mr.R.Ravichandran for R2

सत्यमेव जयते
ORDER

The petitioner has approached this Court seeking the following relief:

'To issue a writ of Mandamus directing the respondents herein to sanction the family pension to the petitioner in respect of the service benefits of late husband Mr.C.Palanisamy, Office Assistant, under Pension Payment Order No.4064 (P.U.P) dated 20.08.1990 issued by the 1st respondent.'

2.The petitioner's husband Mr.C.Palanisamy was an employee under the second respondent. He retired from the service as Office Assistant on attaining superannuation on 01.03.1990.

Thereafter, he was allowed to draw pension during his life time as eligible under Pension Payment Order 4064 dated 20.08.1990. He died on 03.08.2008.

3.By virtue of the death of her husband, the petitioner became eligible for family pension. According to her, she was shown as a nominee in the service records of the petitioner's husband. This fact has been admitted in the counter affidavit and even in the Pension Payment Order, this fact was recorded. In the joint photograph which was also taken showing that the petitioner is the wife of the deceased, viz., C.Palanisamy. In spite of these facts, the respondents had not sanctioned the family pension to the petitioner.

4. On enquiry, the petitioner was informed that the respondents have received objections from one Samiappan seeking family pension under the pension scheme. According to the petitioner, the said Samiappan is none other than the son of the first wife of the late Palanisamy. According to the petitioner, she had married Palanisamy only after the death of his first wife and therefore, the marriage was valid and subsisting during the lifetime of Palanisamy. More over, it is admitted that the name of the petitioner had been found in the service records as well as in the Pension Payment Order.

5.According to the petitioner, the said Samiappan was a Government employee and aged about 50 years. But in any event, as per rules, he is not entitled to any family pension after crossing of certain age and also being an employee of the Government. This fact is also not disputed in the counter affidavit.

6.When the matter is taken up for hearing, a counter affidavit has been filed, in which it is stated that the petitioner has not submitted certain documents required for consideration of her request, particularly, Succession Certificate, marriage Certificate, Pension Payment Order, etc. and therefore, her request may not be granted.

7.At this, the learned counsel for the petitioner would submit that as per the instructions issued by the Government, dated 21.07.1995, no such documents are required since the Government has clarified that, "all the pension disbursing officers are therefore requested not to insist upon legalheirship certifiante while making payment of family pension to the spouse in the case of death of pensioners where joint pension payment orders are already issued by the Acccountant General". The learned counsel for the petitioner would also draw the attention of this Court to the pension payment order wherein it is clearly mentioned that the petitioner is the wife of the

deceased employee and photograph also fixed along with the deceased Palanisamy. This fact is also admitted in the counter affidavit. Therefore, this Court finds no legal impediment for sanctioning of family pension as admissible to the petitioner on the death of her husband on 03.08.2008.

8.This Court does not find any basis on which the matter has been dragged for several years without taking any decision in the matter. When the admitted documents are available viz., Pension Payment Order and since there is admittedly no further rival claim by any one except the said Samiappan, the authorities concerned caused huge delay and consequently caused hardship to the petitioner for not sanctioning of family pension as admissible.

9.In these circumstances, this Court has perused the materials placed on record and satisfied that the petitioner has made out a case for the grant of relief. Therefore, the respondents are directed to sanction family pension to the petitioner on the basis of the available documents namely, pension payment order with arrears of family pension and monthly family pension. The petitioner is also entitled to revision of family pension as admissible as on date. The respondents are also directed to pay interest at 9% p.a. on the delayed payment of family pension from the date it became payable and to till the date of realization of the claim amount. The second respondent is also directed to forward necessary pension papers to the first respondent and the first respondent is directed to pass final orders by sanctioning pension as per the aforesaid terms. This exercise shall be complied with by the respondents within a period of ten weeks from the date of receipt of a copy of this order.

10.In view of the above direction, the Writ Petition stands allowed. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

kal
To

1.The Director,
Local Fund Audit,
4th Floor, Kuralagam,
Chennai-108.

2.The Commissioner,
Panchayat Union, Erode,
Erode District.

+lcc to Mr.V.Manohar, Advocate sr.no.89887

W.P.No.8555 of 2011

nr 07/02/2018



WEB COPY