

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.33466 of 2006

Radhamani

... Petitioner

Vs.

1.The Assistant Educational Officer,
Near Govt. Veterinary Hospital,
Yercaud.

2.Arputham

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the order dated 31.7.2006 and made in Na.Ka.No.453/A1/1994 on the file of the first respondent and quash the same and direct the first respondent herein to disburse the family pension to petitioner herein within the time stipulated by this Court.

For Petitioner : Mr.G.Vivekanand

For 1st Respondent : Mr.S.Gunasekaran
Additional Government Pleader

For 2nd Respondent : Mr.G.Justin

ORDER

The petitioner has approached this Court for seeking the following reliefs:

"To issue a Writ of Certiorarified Mandamus calling for the records of the order dated 31.7.2006 and made in Na.Ka.No.453/A1/ 1994 on the file of the first respondent and quash the same and direct the first respondent herein to disburse the family pension to petitioner herein."

2.The petitioner belongs to Adi Dravidar Community and was married to one Rajagopal on 19.03.1975. Her husband Rajagopal died on 09.05.1994 while he was in service as Headmaster,

Panchayat Union School, Nagalur, Yercaud. From the wedlock, three children were born and till the death of her husband, all of them were living together.

3. After death of her husband in 1994, the 2nd respondent staked a claim to the estate of Rajagopal on the basis of she had married Rajagopal in a Church at Yercaud and she was a legally wedded wife. She also managed to obtain a legal heirship certificate certifying that she and her children were the legal heirs of the said Rajagopal.

4. In the above circumstances, in order to prove whether the petitioner was the legally wedded wife of Rajagopal, the petitioner approached the Civil Court in O.S.No.316 of 2000 on the file of the II Additional District Munsif Court, Salem praying for declaration declaring her and her children as the legal heirs of the said Rajagopal. However, unfortunately, without proper appreciation of the materials, the suit came to be dismissed. Aggrieved by the Judgment and Decree of the trial Court dated 22.06.2001 in O.S.No.316 of 2000, an appeal was preferred in A.S.No.126 of 2001 on the file of the II Additional District Judge, Salem. The Appellate Court, vide its Judgment and Decree dated 18.10.2001, set aside the order of the trial Court and allowed the petitioner's appeal and ultimately, decreed the suit as prayed for.

5. As against the Judgment and Decree of the Appellate Court, the 2nd respondent preferred the second appeal before this Court in S.A.No.215 of 2002. Initially, an interim order was granted on 01.03.2002 by this Court, but, however, subsequently, the same was vacated, by order dated 12.08.2003.

6. On the basis of the appellate Court Judgment and Decree, the petitioner has approached the authority concerned for grant of her retirement and pensionary benefits as admissible to the deceased Rajagopal, however, the same came to be rejected by proceedings dated 31.07.2006 on the ground that the 2nd respondent was shown as legal heir and therefore, the benefits cannot be given to the petitioner.

7. When the matter was taken up for hearing, the learned counsel for the petitioner would produce copy of the Judgment passed by this Court in S.A.No.215 of 2002. This Court, after adverting to various materials, has finally confirmed the Judgment passed by the First Appellate Court in A.S.No.126 of 2001 dated 18.10.2001.

8. Since this Court has confirmed the Judgment and Decree of the First Appellate Court declaring that the petitioner herein is the legally wedded wife of the said deceased Rajagopal, this

Court does not find any legal impediment for grant of all the benefits admissible to the said deceased Rajagopal towards retirement and pensionary benefits.

9. Upon notice, Mr.S.Gunasekaran, learned Additional Government Pleader has entered appearance for the 1st respondent and Mr.G.Justin, learned standing counsel has entered appearance on behalf of the 2nd respondent.

10. On behalf of the 2nd respondent, it is submitted that she was the legally wedded wife of Rajagopal and therefore, the petitioner herein is not entitled to the benefits. Such argument cannot be countenanced both in law and on facts for the reason that this Court in S.A.No.215 of 2002 dated 27.02.2014 has confirmed the Judgment and Decree of the First Appellate Court dated 18.10.2001 confirming the status of the petitioner as being the only legally wedded wife of the deceased. That being the case, any objections from the 2nd respondent cannot be considered to be a valid objection.

11. In view of the above said position, this Court has no hesitation in allowing the writ petition. The impugned order of the 1st respondent dated 31.7.2006 in Na.Ka.No.453/A1/1994 is set aside and the 1st respondent/competent authority is directed to sanction all the retirement benefits, as admissible to the said Rajagopal, to the petitioner and her family and also the arrears accrued as on date. The petitioner is also directed to make a representation in this regard along with the copy of the Second Appeal Judgment of this Court in S.A.No.215 of 2002 dated 27.02.2014 along with the Judgment and Decree of the First Appellate Court in A.S.No.126 of 2001 dated 18.10.2001. On the documents being produced, the 1st respondent/competent authority is directed to pass orders, in compliance of the above direction, within a period of eight weeks from the date of receipt of a copy of this order.

12. With the above direction, the Writ Petition is allowed. No costs.

s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

Sgl

To

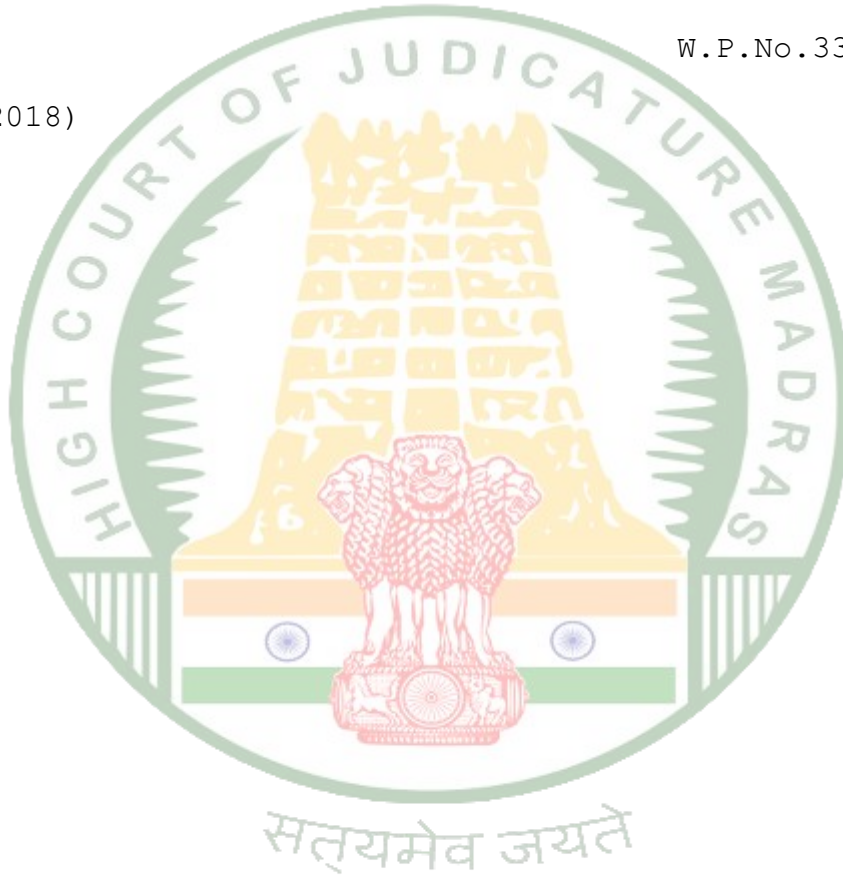
1.The Assistant Educational Officer,
Near Govt. Veterinary Hospital,
Yercaud.

+1 CC to Mr.G.Vivekanand, Advocate sr 90080.

+1 CC to Govt. Pleader sr 90596.

W.P.No.33466 of 2006

SP(18/01/2018)



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