



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD).No.4210 of 2017 and
W.M.P. (MD) Nos.3356 & 3357 of 2017

S.J.Anitha Christy

.. Petitioner

Vs.

1)The Accountant General (A&E),
O/o. The Principal of Accountant General(A&E),
No.61, Anna Salai, Thenampet,
Chennai-600 018

2)The District Registrar,
O/o. The District Registrar Office, Palani,
Dindugal District.

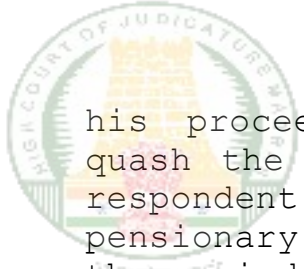
3)The Treasury Officer,
O/o. The District Treasury Office, Sivagangai,
Sivagangai District. ..Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned order passed by the first respondent in his proceedings in Pen33/I/Pt16456/91937, dated 26.12.2016 and quash the same as illegal and consequential to direct the first respondent to authorize the family pension and other related pensionary benefits including the arrears of family pension within the period that may be stipulated by this Court.

For Petitioner	: Mr.C.Venkatesh Kumar
For R-1	: Mr.P.Gunasekaran,
	Standing Counsel for Accountant General.
For R-2 & R-3	: Mr.N.S.Karthikeyan,
	Additional Government Pleader

O R D E R

<https://hcservices.ecourts.gov.in/hcservices/> petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, calling for records relating to the impugned order passed by the first respondent in



his proceedings in Pen33/I/Pt16456/91937, dated 26.12.2016 and quash the same as illegal and consequential to direct the first respondent to authorize the family pension and other related pensionary benefits including the arrears of family pension within the period that may be stipulated by this Court.

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2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel for Accountant General appearing for the first respondent and learned Additional Government Pleader appearing for the respondents 2 and 3.

3. By the impugned order, the first respondent has turned down the request of the petitioner claiming family pension as the second wife of the deceased employee. The reason given by the first respondent is that the petitioner is the second wife and that her marriage with the deceased employee was during the subsistence of the marriage with her husband's first wife and that therefore her claim for family pension is not admissible.

4. The petitioner herself admitted that she is the second wife of her husband who retired from service as Sub Registrar(Grade-I). The petitioner further admitted that her husband had married earlier one Mrs.Evangelin on 25.10.1963 and that her husband's first wife died only on 21.01.1995. Since the petitioner married her husband only on 25.04.1976, her marriage is invalid. Even according to the Indian Divorce Act, this position is not in dispute. The legal position is made clear by several Judgments of this Court.

5. In *P.Velammal Vs. The Additional Assistant Elementary Educational Office, Sivagangai District and others*, in W.P.(MD) No.3096 of 2016, dated 26.04.2016, this Court has held that the second wife cannot be treated as a widow in the strict sense as per Rule 49(7)(a)(i) of the Pension rules and is not entitled for the family pension as a widow. It was held further in the said case that the misplaced sympathy can never take stride over the legislative enactments and that and no fault can be fastened with the action of the official respondents rejecting the claim by the second wife for family pension. The same view was taken by the learned Judge in a subsequent Judgment in W.P.(MD) No.3989 of 2016, dated 20.04.2016 and in *Poongavanam and others Vs. Thangamani and others*, reported in 2012-2-L.W.291. The Judgment of this Court was also followed by Madhya Pradesh High Court in a similar case in W.P.(MD) No.12437 of 2012, by Judgment, dated 09.02.2017. In another unreported Judgment of this Court, dated 11.08.2014 in W.P.(MD) No.31679 of 2012, the learned Single Judge of this Court has held that the second wife is not entitled to pension benefits, even though, the children born to the second wife are entitled to



6. The Petitioner tried to distinguish the Judgements on the only ground that the petitioner is a Christian and that the marriage was solemnized as per Christian Law. The submission of the learned counsel has no merits as the second marriage is also prohibited under the law applicable to Christians and hence even the second wife of a Christian or the second wife who married a person by adopting Christianity cannot be considered as a legally wedded wife. Hence this position is similar even in the case of petitioner and hence, there is no merits in this case. In view of the legal position settled by this Court by several precedents, this Court find that the Writ Petition is not sustainable and hence dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub-Assistant Registrar

To

- 1) The Accountant General (A&E),
O/o. The Principal of Accountant General (A&E),
No.61, Anna Salai, Thenampet,
Chennai-600 018
- 2) The District Registrar, O/o. The District Registrar Office,
Palani,
Dindugal District.
- 3) The Treasury Officer, O/o. The District Treasury Office,
Sivagangai,
Sivagangai District.

+One cc to M/s.Ajmal Associates, Advocate, SR.No.15229
+One cc to Mr.P.Gunasekaran, Standing Counsel for
Accountant General in SR.No.16031
+One cc to The Special Government Pleader, SR.No.15537

pmu
RL/7C/3P/MR/SAR3/17.5.2017