



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD) .No.4279 of 2017

P.Manikandan

... Petitioner

Vs.

1.The Principal Accountant General(A &E),
No.361, Anna Salai,
Chennai-600 018.

2.The Director of Family Welfare Pension,
No.361, Anna Salai,
Thenapet, Chennai-600 018.

3.The District Treasury Officer,
Madurai District, Madurai.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to disburse family pension benefits of the petitioner deceased adopting mother to the petitioner within stipulated time may be fixed by this Court by considering the representation given by the petitioner on 19.01.2017.

For Petitioner

: Mr.S.Prabhu

For R1

: M/S.P.Gunasekaran

Standing Counsel for A/C General

For R2 & R3

: Mr.N.S.Karthikeyan,

Additional Government Pleader

ORDER

This Writ Petition is filed to issue a direction to the respondents to disburse family pension benefits of the petitioner's deceased adoptive mother, to the petitioner within the time stipulated by this Court, by considering the representation given by the petitioner dated 19.01.2017.

2. The learned counsel appearing for the petitioner submitted that he is the adopted son of one Mariammal, who was working as a Nursing Assistant in Rajaji Hospital, Madurai, from 20.05.1961 to 30.06.1999 and retired from service on 30.06.1999,



on attaining age of superannuation. The petitioner submits that his adoptive mother died on 06.01.2014.

3. It is the case of the petitioner that his adopted father filed a petition in H.M.O.P.No.113 of 2007, before the Family Court, Madurai, as against his adoptive mother for divorce and the marriage was dissolved by an order in the proceedings dated 25.11.2009. Though an appeal was filed by the petitioner's adoptive father, the petitioner's adoptive mother died. Since the petitioner is the sole heir of his adoptive mother, he has filed an application for family pension.

4. Though no counter is filed by the respondents, the learned counsel for the first respondent would submit that the age of the petitioner is more than 25 years, when the mother of the petitioner died and hence, the petitioner is not entitled to family pension as per the Rules. The petitioner even in his representation has admitted that his adoptive father is getting family pension from 01.01.2014 to 02.12.2014.

5. It is the specific case of the respondent that all other terminal benefits have been settled to the petitioner's adoptive mother and therefore, the petitioner's claim was only in respect of family pension, which he is not entitled to as per the Rules. Since the factual assertion of the respondent and the legal implications of the Pension Rules regarding the entitlement of the petitioner to claim family pension, after the age of 25 years is not disputed, this Court is not inclined to entertain the writ petition and therefore, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

6. The petitioner has submitted that he has also made a claim for family welfare fund which was paid to the petitioner's adoptive father. It is open to the petitioner to seek appropriate remedy as against the petitioner's adoptive father.

Sd/-

Assistant Registrar (CO)

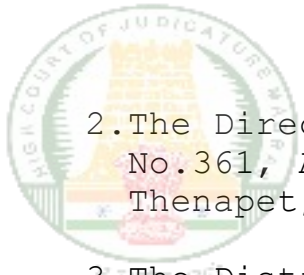
/True copy/

Sub Assistant Registrar

To

1. The Principal Accountant General (A & E),
No.361, Anna Salai,

<https://hcservices.chennai.gov.in/hcservices>



2.The Director of Family Welfare Pension,
No.361, Anna Salai,
Thenapet, Chennai-600 018.

3.The District Treasury Officer,
Madurai District, Madurai.

+1 CC to M/s.P.GUNASEKARAN, Advocate, SR No. 14532
+1 CC to M/s.THE SPECIAL GOVERNMENT PLEADER, SR No. 14719
TRP
PSM/JC/SR3/10.04.2017/3P/6C

W.P (MD) .No.4279 of 2017
14.03.2017