



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2017

CORAM:

THE HONOURABLE **MR. JUSTICE T.S.SIVAGNANAM**

AND

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

W.A. (MD) No.515 of 2013 &

M.P. (MD) .No.1 of 2013

1. The General Manager,
Tamil Nadu Government State
Express Transport Corporation,
Tamil Nadu Limited,
Chennai-600 002.
 2. The Branch Manager,
Tamil Nadu State Express Transport Corporation,
Meenachipuram Depot,
Nagercoil,
Kanyakumari District.
- ...Appellants/Respondents

Vs.

V.Isabella

...Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order, dated 10.08.2012, made in W.P.(MD).No.9255 of 2012.

Prayer in WP(MD). 9255/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, in the nature of writ, calling for the orders of the 1st Respondent's proceedings in Lr.No. 048912/Y10/PF/SETC 2011 dated 05.11.2011 and quash the same consequently directing the Respondents herein to sanction the family pension to the petitioner on account of the death of her husband namely Issac John and pass such further or other orders.

For Appellants : Mr.K.Sudalaiyandi
For Respondent : Mr.D.Srinivasa Raghavan

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J**]

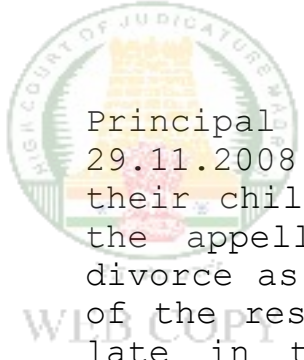
Heard Mr.K.Sudalaiyandi, learned counsel appearing for the appellants and Mr.D.Srinivasa Raghavan, learned counsel appearing for the respondent.



2. This appeal, by the Tamil Nadu State Express Transport Corporation, is directed against the order passed in W.P.(MD) No.9255 of 2012, dated 10.08.2012. The said writ petition was filed by the respondent herein, who is the widow of late Isaac John, who was working as Conductor in the appellant Corporation. The challenge in the writ petition was to an order passed by the first appellant dated 05.11.2011, whereby the request made by the respondent for sanctioning family pension on account of the demise of her husband was rejected. The Writ Court after considering the fact that the said Late.Isaac John after obtaining a decree of divorce, divorcing his first wife Susila Rani, married the respondent/writ petitioner and the decree of divorce having been passed prior to the marriage between the Isaac John and the respondent, held the marriage to be a valid marriage and the respondent was entitled to get family pension and accordingly allowed the writ petition. The only ground on which, the appellants challenges the impugned order is by contending that the marriage between the respondent/writ petitioner and Late.Isaac John took place prior to the decree of divorce and it is not a valid marriage. In support of such contention, the averments made in paragraph 3 of the affidavit filed in support of the writ petition has been referred to.

"3.I state that my husband married on Suseela Rani on 10.04.1980 according to the Christian Rites and Customs. Since there was a misunderstanding between my husband and Suseela Rani, due to her ill health and inability to give birth a child, they were living separately right from the date of their marriage. Subsequently both got mutual divorce decree from the District Court, Nagercoil, Kanyakumari District I.D.O.P.No.33 of 2005. In the meanwhile the marriage between myself and my husband took place in the year 1987 and out of said wedlock, two children namely I.Jancy Sherene Bell (aged 23 years) and I.Jancy (aged 22 years) born. My husband had put my name as nominee in all of his service records. While so my husband died on 06.01.2008 in harness. At the time of death, my husband was working with Respondent corporation. As per the standing orders of the Respondent corporation the family members of deceased employee are entitled for family pension besides all other retirement benefits."

4.On a perusal of paragraph 3 of the affidavit filed in support of the writ petition, we find that the year of marriage between the respondent and Late.Isaac John is a vague averment and there is no record to substantiate that the marriage between the respondent and Isaac John was prior to the decree of divorce. The respondent has clearly stated that the respondent's name has been entered in the Service Register as a nominee. Furthermore, the respondent has obtained a legal heir certificate from the



Principal Sub Court, Nagercoil in S.O.P.No.6 of 2008, dated 29.11.2008 and the said certificate shows that the respondent and their children are the only legal heirs of Late.Isaac John. Thus the appellant Corporation having acted upon on the decree of divorce as well as the Legal heirship certificate entered the name of the respondent as a nominee in the Service Records, it is too late in the day for the appellants to now contend that the marriage between the respondent and Late.Issac John was not a valid marriage. Thus in the peculiar facts and circumstances, we do not propose to interfere with the order passed by the Writ Court. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To:

1. The General Manager,
Tamil Nadu Government State
Express Transport Corporation,
Tamil Nadu Limited,
Chennai-600 002.
2. The Branch Manager,
Tamil Nadu State Express Transport Corporation,
Meenachipuram Depot,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.K.SUDALAIYANDI, Advocate, SR No. 58660

AM/DAS

PSM/GT/SAR2/21.06.2017/3P/4C

W.A. (MD) No.515 of 2013
06.06.2017