IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.09.2018

CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1796 of 2013
W.M.P.No.2544 of 2017

S.Sargunam .. Petitioner

vs

1. The State of Tamil Nadu,
   Rep.by the Secretary to Government,
   Home Department Chennai - 9.

2. The Joint Commissioner of Police Traffic,
   Greater Chennai,
   Vepery Chennai -7.

3. The Pension Pay Officer,
   O/o The Accountant General of Tamil Nadu,
   Chennai - 600 006.

4. M.Mariathiruthuvam .. Respondents

(R4 was impleaded as per order
dated 23.12.2016 in WMP.No.12165/2016)

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandumus to direct the respondents to pay all the terminal benefits due to the petitioner's Husband (late) Masilamani, Head Constable including family pension and compassionate appointment in terms of the succession certificate in O.P.No.8 of 2007.

For Petitioner : Ms.T.Rama Devi

For Respondents : Mr.Ansar
Government Advocate for R1 & R2

Mr.V.Vijay Shankar for R3

Mr.S.Ilam Valudhi
for R.Naresh Kumar for R4

ORDER

The relief sought for in this writ petition is for a direction to direct the respondent to pay all the terminal benefits due to the deceased husband of the writ petitioner viz., Masilamani, Head Constable including family pension and compassionate appointment in terms of the Succession Certificate in O.P.No.8 of 2007

2. The learned counsel appearing for the petitioner states that the writ petitioner is a legally wedded wife of the deceased employee who was employed in the police department and passed away on 17.10.2002 in a road accident. The learned counsel for the writ petitioner states that the petitioner being the legally wedded wife of the deceased employee is entitled for all the terminal and pensionary benefits due to the deceased Head Constable. This apart, the writ petitioner already obtained a Succession Certificate in O.P. 8 of 2007 and the same was produced before the respondent for consideration. In spite of the Succession Certificate, the pensionery benefits are not settled in favour of the writ petitioner. Thus, the writ petitioner is constrained to move the present writ petition.

3. The learned counsel appearing on behalf of the fourth respondent vehemently opposed the contention by stating that the marriage between the deceased Head Constable and the fourth respondent was solemnized on 01.06.1997 and the said deceased Head Constable married the writ petitioner on 20.01.1988. Thus, the fourth petitioner is the legally wedded wife of the deceased Head Constable and the marriage between the writ petitioner and the deceased Head Constable is null and void in the eye of law. Thus, the fourth respondent alone is entitled to get all the pensionary benefits. It is further contended that the fourth respondent was residing in the police quarters allotted by the Commissioner of Police and the 4th respondent has performed last rites of the deceased Head Constable. Thus, the officials of the Commissionerate also recognized the fourth respondent as a legally wedded wife of the Head Constable and further pension proposals were submitted and based on the proposal, the Accountant General also sanctioned the pension and the same was being paid to the fourth respondent. However, on account of the objections raised by the writ petitioner, the pension is now stopped by the Accountant General.

4. The learned counsel appearing on behalf of the third respondent Accountant General informed this Court that based on the pension proposals submitted by the competent authority, the Accountant General sanctioned the same and on account of the objections raised by the writ petitioner, further payment of pension has been stopped. The Accountant General instructed the parties to approach the Civil Court for resolving the disputes

now raised between them.

5. This Court is of the considered opinion that the complex facts and circumstances now raising in the writ petition cannot be adjudicated in a writ jurisdiction under Article 226 of the Constitution of India. The issues now raised in the present writ petition are certainly complex and which requires submission of original documents and evidences are also to be adduced. In the absence of conducting a full fledged enquiry in respect of the truth, the relief as such sought for by the writ petitioner cannot be considered in this writ petition. When two wives are claiming the pensionery and terminal benefits of the deceased Government servants, the facts in relation to the marriage and other aspects are to be enquired into by verifying the documents by adducing the evidences. This being the principles to be followed, the opinion offered by the Accountant General of Tamil Nadu, is to be followed and that is the correct view of the matter. The Accountant General has rightly directed the parties to approach the Civil Court for the purpose of adjudicating the issues. This Court is also of the same opinion and accordingly, the writ petitioner as well as the 4th respondent is at liberty to adjudicate the matter before the Competent Civil Court of Law for redressing their grievances in the manner known to law. Accordingly, no further consideration is required in respect of the grounds raised in this writ petition.

6. Accordingly, writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

pns/sk

To

1. The Secretary to Government,
   Home Department Chennai - 9.

2. The Joint Commissioner of Police Traffic,
   Greater Chennai,
   Vepery Chennai -7.

3. The Pension Pay Officer,
   O/o The Accountant General of Tamil Nadu,
   Chennai - 600 006.

+1cc to Mr.P.Ramadevi, Advocate, S.R.No.67518
+1cc to Mr.V.Vijay Shankar, Advocate, S.R.No.67887

W.P.No.1796 of 2013

rrs 23/10/2018