

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.11.2018

CORAM

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

W.P.No. 5430 of 2015

M.P.No.1 of 2015

Smt.K.Saroja

...Petitioner

Vs

1.The State Rep. by its
Commissioner of Police,
Greater Chennai City at Egmore,
Chennai-8.

2.The Joint Commissioner of Police,
Chennai East Zone at Egmore,
Chennai- 8.

3.The Pension pay Officer,
Pension Pay Office,
Teynampet , Chennai-6.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the 1st and 2nd respondents offices to make recommendations on the claim of family pension of the petitioner based on the documents produced by her to the office of the T. N.Accountant Generals Office Chennai-600 018 to accord concurrence for the sanction of family pension benefits to the petitioner from the date of her claim to till date and continue to pay the same through out her life time along with all permissible amounts thereon with a time as may be fixed by this Court.

For Petitioner : Mr.S.Veerassamy

For Respondents : Mrs.A.Srijayanthi
Special Government Pleader

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents 1 & 2 offices to make recommendations on the claim of family pension of the

petitioner, based on the documents produced by her to the office of the Tamil Nadu Accountant Generals Office Chennai-600 018 to accord concurrence for the sanction of family pension benefits to the petitioner from the date of her claim to till date and continue to pay the same.

2. The petitioner states that her husband late Mr.T.A.Kannan was employed as Police Constable in Greater Chennai Police and he was retired from service on 30.05.1977. The husband of the writ petitioner was receiving pension till his death on 03.10.2010. Subsequently, the writ petitioner got legal heirship certificate from the concerned Taluk office at Egmore-Nungambakkam Taluk, Chennai-31 and submitted the same before the respondents 1 and 2 for the purpose of grant of pensionary benefits. However, the said application submitted by the writ petitioner along with the legal heirship certificate was not considered, on account of the fact that the petitioner is the second wife of the deceased employee.

3. In spite of all these facts, the respondents 1 and 2 forwarded the same to the Accountant General Office, who in turn returned the proposals by stating that the applicant should establish that she is the legally wedded wife of the deceased employee for the purpose of sanctioning pensionary benefits.

4. The learned Special Government Pleader appearing for the respondents states that the petitioner Mrs.K.Saroja, who is the second wife of late Mr.T.A.Kannan submitted petition to the Pension Payment Officer, DPI complex. Admittedly, the writ petitioner is the second wife of the deceased employee. She was not receiving any family pension after the death of her husband. It is further contended that the name of the writ petitioner has not been entered as a nominee in the service records of the writ petitioner nor in the pension book of the writ petitioner. In view of the fact that the name of the writ petitioner has not been registered as a nominee, the authorities competent requested the writ petitioner to submit all relevant documents to establish that she is the legally wedded wife of the deceased employee.

5. This Court is of an opinion that if the second marriage was solemnized after the death of the 1st wife, then the marriage is a valid one. Suppose, if the writ petitioner married the deceased employee during the life time of the 1st wife, then the marriage was null and void. However, these facts are to be established by the petitioner to enable the authorities to consider the case of family pension. Thus, the petitioner has to approach the competent Court of law for the purpose of establishing the fact that her marriage with the deceased employee was valid and enable the authorities to consider her case.

6. Mere submission of legal heir certificate is insufficient to grant family pension and the same will not establish the validity of the marriage of the petitioner with the deceased employee or otherwise.

7. This being the factum of the case, this Court is of an opinion that the relief as such sought for in the present writ petition cannot be granted. However, it is left open to the writ petitioner to approach the competent Court of law and establish the validity of her marriage with the deceased employee and enable the authorities to consider her case under the Tamil Nadu Pension Rules, 1978. In the event of submitting all such relevant documents, the case of the writ petitioner shall be considered by the appropriate authorities on merits and in accordance with law.

8. With the above directions, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sk

To

- 1.The Commissioner of Police,
Greater Chennai City at Egmore,
Chennai-8.
- 2.The Joint Commissioner of Police,
Chennai East Zone at Egmore,
Chennai- 8.
- 3.The Pension pay Officer,
Pension Pay Office, Teynampet , Chennai-6.

+1cc to the Government Pleader, S.R.No. 76818

W.P.No.5430 of 2015

KGK(CO)
GN(30/11/2018)