

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

CORAM :

The Hon'ble Mrs.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. No.26800 of 2017
and W.M.P.No.28521 of 2017

- 1.Union of India,
rep. by The Director General of Post,
New Delhi-1.
- 2.The Chief Post Master General,
Tamilnadu Circle,
Chennai-600 002.
- 3.The Senior Superintendent of Posts,
Kanyakumari Division,
Nagercoil-629 001.Petitioners

-vs-

- 1.K.Santhakumari
- 2.The Registrar,
Central Administrative Tribunal,
High Court Campus,
Chennai-600 104. सत्यमेव जयते

- 3.Valliammal .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records of the impugned order of the second respondent dated 15.9.2016 made in O.A.No.310/00969/2014, quash the same and consequently allow the writ petition.

For Petitioner : Mr.K.Raju
Central Government
Standing Counsel
For Respondents : No Appearance
for respondents 1 and 3

R2 - Tribunal

ORDER

(Order of the Court made by The Hon'ble Chief Justice)

The petitioners have challenged the order of the Central Administrative Tribunal, Madras Bench, Chennai dated 15.09.2016 in O.A.No.310/00969/2014. By the said order, the O.A. preferred by the first respondent came to be allowed. In the said O.A., the first respondent had prayed for grant of family pension to her from 22.04.2006 i.e., the date of the death of her husband M.Theniah.

2. Few brief facts relating to this case are as under:

The husband of the first respondent was working as Postal Assistant under the third petitioner and he retired from service on superannuation on 30.6.1997. Thereafter, the first respondent's husband was receiving pension and he died on 22.4.2006. The issue in the present case is whether the first respondent is entitled for family pension.

3. After the death of the husband of the first respondent, she claimed for family pension through her representation dated 03.9.2007 and she produced all the requisite documents sought by the present petitioners including the legal heir certificate issued by the Tahsildar and the Succession Certificate obtained from the Civil Court. However, the petitioners rejected her claim for family pension by an order dated 30.4.2012. Aggrieved thereby, she preferred another representation dated 01.4.2013 to the third petitioner. There was no reply to the said representation. Hence, the first respondent had approached the Central Administrative Tribunal, Madras Bench. The Central Administrative Tribunal, Madras Bench, as stated earlier, allowed the O.A. preferred by the first respondent, hence this writ petition.

4. According to the petitioners, the first respondent is not the legally wedded wife of the deceased employee M.Theniah, as the first wife Smt.Valliammal is alive, hence, the first respondent is not entitled for grant of family pension. According to the petitioners, neither the deceased employee M.Theniah while he was alive produced any proof of having registered his marriage with the first respondent, nor the first respondent produced any legal documentary evidence in proof of her marriage with the deceased employee M.Theniah. Thus, according to the petitioners, as the first wife Smt.Valliammal was not legally divorced and continued to be the legally wedded wife of M.Theniah, the first respondent is not entitled to the family pension.

5. It is an admitted fact that the deceased employee M.Theniah had revised nominations for family pension in the name of the first respondent. However, according to the petitioners, this is non-est in the eye of law as the marriage of M.Theniah with Smt.Valliammal was in existence.

6. However, the third respondent, Smt.Valliammal, who was the first wife of the deceased employee M.Theniah, had given an affidavit to the effect that after her divorce with M.Theniah, she has got re-married to one Mr.Mariappan and, therefore, she has no claim to the family pension of the deceased employee M.Theniah. Thus, it is seen that there is no rival claim for the family pension. As according to the first wife Smt.Valliammal she has got divorce and thereafter re-married to one Mr.Mariappan, she would not be entitled to the family pension.

7. It is to be noted that Smt.Valliammal, who had been impleaded as fourth respondent in the O.A. before the Central Administrative Tribunal had also filed an affidavit to the effect that she has already got married to one Mr.Mariappan and she has no objection to the applicant (present respondent No.1) receiving the family pension. As stated earlier, the deceased employee M.Theniah had given the name of the first respondent as wife and nominated her to receive the family pension after his death. There is no rival claim from the present third respondent or any other person for family pension. The Central Administrative Tribunal has taken into account all these facts and thereafter, allowed the O.A. preferred by the first respondent.

8. In view of the facts stated above, we are of the opinion that the first respondent is entitled to the family pension. Thus, we find no merit in this writ petition and it is dismissed. No costs. Consequently, W.M.P.No.28521 of 2017 is closed.

Sd/--
Assistant Registrar(CS viii)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Director General of Post,
Union of India,
New Delhi-1.
- 2.The Chief Post Master General,
Tamilnadu Circle,
Chennai-600 002.
- 3.The Senior Superintendent of Posts,
Kanyakumari Division,
Nagercoil-629 001.
- 4.The Registrar,
Central Administrative Tribunal,
High Court Campus,
Chennai-600 104.

+1cc to Mr.K.RAJU CGSC , SR.No. 60333

W.P.No.26800 of 2017

ASK(20/09/2018)

सत्यमेव जयते
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