

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18-06-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.14538 of 2018

Subbulakshmi

.. Petitioner

Versus

- 1.The Administrator,
Tamil Nadu State Transport Corporation
Employees Post Retirement Welfare Fund Scheme,
Thiruvalluvar House,
Pallavan Salai,
Chennai-600 002.
 - 2.The General Manager,
Tamil Nadu State Transport Corporation Limited
(Coimbatore),
Erode Division,
45, Chennimalai Road,
Erode.
 - 3.The Branch Manager,
Tamil Nadu State Transport Corporation Limited
(Coimbatore),
Kavindapdi Branch,
Velampalayam,
Kavindapdi Village,
Bhavani Taluk,
Erode District.
- .. Respondents

PRAYER: Writ petition is are filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to pay the family pension to the petitioner for the death of her husband namely Balagurusamy.

For Petitioner : Mr.I.C.Vasudevan
For Respondents : Mr.P.Kannan Kumar

ORDER

The relief sought for in this writ petition is for grant of family pension to the writ petitioner.

2. On a perusal of the affidavit filed in support of the writ petition, the date of solemnisation of the marriage between the writ petitioner and her husband Balagurusamy has not been mentioned.

3. The learned counsel, appearing on behalf of the writ petitioner, states that the Civil Court passed a decree in O.S.No.275 of 2016. However, the first wife of the deceased employee is not at all a party to the civil suit. If the marriage between the writ petitioner and the deceased employee was solemnised prior to the dissolution of the marriage with the first wife, then the second marriage itself is null and void.

4. This apart, the first wife is entitled for family pension and other benefits at the first instance and in the event of establishing that the writ petitioner has legally married the deceased employee, she may be eligible to get the family pension. The facts relating to the marriage between the writ petitioner and the deceased employee has not been stated in the affidavit filed in support of the writ petition. The age of the writ petitioner is 50 years.

5. This apart, the deceased employee passed away on 12.4.2018. In the absence of these factual details, the right of the writ petitioner cannot be decided at all. This apart, the first wife is also a necessary party to all the litigations and a detailed enquiry in respect of the matrimonial disputes and the status of the writ petitioner as a wife also to be ascertained by the competent authorities. In this regard, the respondents are bound to conduct a detailed enquiry in respect of the status of the writ petitioner as a wife of the deceased employee and thereafter decide the matter by considering the representation.

6. Accordingly, the second respondent is directed to conduct a detailed factual enquiry and consider the representation submitted by the writ petitioner on 23.4.2018 and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Svn

To

- 1.The Administrator,
Tamil Nadu State Transport Corporation
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Velampalayam,
Kavindapdi Village,
Bhavani Taluk,
Erode District.

+2 ccs to M/s.P.kannan kumar Advocate sr 38250

+1 cc to M/s.I.C.Vasudevan Advocate sr 38622

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