

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14614 of 2018

Prema

... Petitioner

Vs.

1.The Superintendent of Police
Dharmapuri District.

2.The Principal Accountant General
(Accounts & Entitlements) Tamilnadu
361, Anna Salai,
Chennai - 600 018.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to order bearing Na/Ka/No.E3/185/18239/2017 dated 16.06.2017 of the first respondent and quash the same as illegal and consequentially to direct the respondents to provide family pension to the petitioner.

For Petitioner : Mr.V.Sakkarapani
For Respondents: Mr.G.B.Rajesh
Government Advocate[For R1]

O R D E R

The order of rejection dated 16.06.2017 in respect of the claim of the writ petitioner for family pension is under challenge in this writ petition.

2.The learned counsel appearing for the petitioner made a submission that the husband of the writ petitioner, Late.Sri.Gajendran, married the writ petitioner on 26.06.1977 in the presence of family elders, well wishers and friends and the marriage was solemnized as per the Hindu Rites and Customs and after the marriage the writ petitioner as well as the deceased employee and the first wife were all living together in the same house.

3.The learned counsel for the petitioner further submits that the first wife of the deceased employee is none other than the elder sister of the writ petitioner. The admitted fact is that the elder sister of the writ petitioner is the first wife of the deceased employee, who died only on

22.04.2005. At the time of solemnization of marriage between the writ petitioner and the deceased employee, the first wife was alive and therefore, the second marriage solemnized by the Government employee during the life time of the first wife is null and void.

4.The marriage was solemnized between the petitioner and the deceased employee was not a valid marriage in the eye of law. In other words the writ petitioner is not legally wedded wife of the deceased Gajendran. This being the factum of the case, this court is of an opinion that the writ petitioner is not eligible for family pension under the Tamil Nadu Pension Rules, 1978. The deceased employee was serving as Sub-Inspector of Police and retired from service on 31.07.2001 and passed away thereafter, on 21.07.2015. A Sub-Inspector of Police, who is serving in an Uniformed Service cannot solemnize a second marriage and in the present case, the present marriage was solemnized between the writ petitioner and the deceased employee during the life time of the first wife of the deceased government employee. This being the factum of the case, the order of rejection passed by the first respondent prima facie in accordance with law and there is no infirmity as such the order of rejection passed by the respondents. In this view of the matter, no further adjudication is required in respect of the other grounds raised in this writ petition.

5.Accordingly, the writ petition stands dismissed as devoid of merits. However, there is no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police
Dharmapuri District.

2.The Principal Accountant General
(Accounts & Entitlements) Tamilnadu
361, Anna Salai, Chennai - 600 018.

+ 1 cc to M/s. V. Sukkarupani, Advocate SR.38438
+ 1 cc to MR. Government Pleader Sr.38735

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KAN (CO)
<https://hcservices.ecourts.gov.in/hcservices/>
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