

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.10.2018

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

W.P.No.43834 of 2016

S.Rajalakshmi

..Petitioner

vs

1.The Secretary to the Government,
Transport Department,
Secretariat,
Chennai - 600 009.

2.The Managing Director,
Chennai Metropolitan Corporation,
Pallavan Illam,
Pallavan Salai,
Chennai - 600 002.

3.The Branch Manager,
Metropolitan Transport Corporation,
Poonamallee,
Chennai - 600 056.

4.S.Rajamani

.. Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned order issued by the 2nd respondent herein by the Registered Post vide Letter No.2550/sabi(Nee Na) 5 / Maa Po ka / 2015 dated 20.02.2016 and quash the same with considering the Petitioner's last representation dated 24.10.2016.

For Petitioner : M/s.Dalit Tiger C.Ponnusamy
For Respondents : Mr.R.S.Selvam, GA for R1
M/s.Rajeni Ramadoss for R2 & R3
No appearance for R4

O R D E R

The order of rejection passed by the respondent in proceedings dated 20.02.2016 in respect of the claim of the writ

petitioner for grant of pensionary benefits and pension is under challenge in this writ petition.

2.The learned counsel appearing on behalf of the writ petitioner states that her husband namely, late Mr.K.Sundarraaj was employed as a Driver and passed away, while he was in service. The marriage between the deceased employee and the writ petitioner was solemnized on 25.06.1990 at Perambalur Taluk. On the ground that the marriage of the writ petitioner is legal and in accordance with the Hindu Marriage Act, the writ petitioner states that she is entitled to get all the pensionary benefits and the pension due to the deceased employee.

3.The learned counsel appearing on behalf of the Corporation informed this Court that the deceased employee has nominated the writ petitioner as the wife in his service records. However, the name of the writ petitioner was found in the Provident Fund nomination alone. The gratuity amount has already been settled in favour of the writ petitioner by the respondent Corporation. In view of the fact that the 4th respondent also raised a counter claim, the Corporation is unable to settle the balance pensionary benefits as well as the pension. The 4th respondent submitted a Birth Certificate of her daughter namely, M/s.S.Sundari, wherein the name of the father was mentioned as Sundarraaj and the name of the mother is named as Rajamani. The Date of Birth is stated as 05.04.1983.

4.Relying on the said Birth Certificate, the learned counsel for the respondent Corporation urged this Court by stating that there is a reliability in respect of the claim made by the 4th respondent as it seems that the marriage between the 4th respondent and the deceased employee was prior to the marriage of the writ petitioner. Under these circumstances, the respondent Corporation passed the impugned order, directing the writ petitioner to obtain proper Succession Certificate or approach the Civil Court for adjudication of the disputes instead of settling the issues through the competent Court of law, the writ petitioner has chosen to prefer the present writ petition.

5.This Court is of an opinion that such complex facts and circumstances arising on account of the marriages can never be adjudicated in a writ proceedings under Article 226 of the Constitution of India. This Court cannot decide, who is the legally wedded wife of the deceased employee in this writ petition. Thus, the respective parties have to approach the competent Court of law for adjudication of all these disputes by producing original documents and by adducing evidences.

6.Such is the principle to be followed, there is no

infirmity as such in respect of the order impugned issued by the respondent Corporation. The writ petitioner has to establish her marriage by producing the documents and by adducing evidences before the competent Court of law and by impleading all the necessary parties including the 4th respondent. Under these circumstances, the petitioner is at liberty to approach the competent Court of law for redressing her grievances. As far as the Transport Corporation is concerned, only in the event of resolving the disputes between the petitioner as well as the 4th respondent, they will be in a position to settle all other terminal benefits as the same would cause prejudice to the interests of all the parties concerned.

7. With these observations, 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

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To

1. The Secretary to the Government,
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Chennai - 600 002.
3. The Branch Manager,
Metropolitan Transport Corporation,
Poonamallee, Chennai - 600 056.

+1cc to M/s.Dalit Tiger C.Ponnusamy, Advocate, S.R.No.72310
+1cc to M/s.Rajeni Ramadoss, Advocate, S.R.No.73172
+1cc to the Government Pleader, S.R.No.73070

W.P.No.43834 of 2016

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