

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 14.09.2018

Orders Pronounced on : 28.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Cont.P.No.1666 of 2017

Mrs.Savithri .. Petitioner
Vs.

1. Mr.K.Shanmugam, I.A.S.,
Secretary to Government,
Finance Department,
Fort St.George, Chennai-600 009.
2. Mr.T.S.Jawahar, I.A.S.,
Director, Treasuries and Accounts,
Panagal Maligai, Saidapet,
Chennai-600 015.
3. Mr.K.Kathavarayan,
Treasury Officer,
District Treasury,
Kancheepuram District. .. Respondent

Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondents for willfully disobeying the order of this Court passed in W.P.No.27834 of 2014, dated 07.11.2016.

For petitioner : Mr.K.R.Gunashekar
For respondent : Mr.M.Elumalai, Govt. Advocate

ORDER

This Contempt Petition has been filed alleging disobedience of the order passed by this Court in W.P.No.27834 of 2014, dated 07.11.2016, in and by which, this Court directed as follows:

"6. Accordingly, applying the above said dictum, the present Writ Petition is allowed. The respondents are directed to sanction Family Pension to the petitioner. The respondents are further directed to release the Family Pension payable to the petitioner with arrears, within a period of eight weeks from the date of receipt of a copy of this order, and to continue to pay the Family Pension so long as the petitioner is eligible to get the Family Pension. No costs."

2. Since the abovesaid order has not been complied with, the present Contempt Petition is filed by the petitioner stating that her late husband M.R.Gopal was an Ex-Serviceman and he retired after putting in more than 24 years of Military Service. While her husband was receiving Army Pension, he was re-employed in State Government Service as basic servant in the Office of the Treasury Officer, Kancheepuram. Her husband retired from State Government Service on superannuation on 30.04.1983. Thereafter, he was receiving pension from State Government from 01.05.1983 without counting his Military Service. He was also getting Army Pension from Central Government. After the death of her husband on 08.05.1993, leaving behind four children, the petitioner has been getting Army Family Pension from Central Government, but she has not been sanctioned Family Pension with effect from 09.05.1993 from the State Government by the respondents. The petitioner's husband, subsequent to his retirement from

Military Service, was re-employed under the third respondent in the Tamil Nadu State Government Service for more than 17 years and he retired on superannuation on 30.04.1983. The petitioner's husband was receiving Army Pension for Military Service and Civil Pension for the service rendered under the State Government, without counting the Military Service till his death on 08.05.1993. Hence, according to the petitioner, she is entitled for Family Pension from the State Government regardless of the Army Family Pension received by her.

3. It is further stated by the petitioner that the families of the deceased Central Government employees who were re-employed after discharge/retirement from Military Service, are getting both the Army Pension and Civil Service Pension. Hence, the petitioner made a representation dated 30.04.2014 to the third respondent for sanction of Family Pension, which was rejected by the third respondent by letter dated 11.06.2014 on the ground that the Government had not issued any order for sanction of Civil Family Pension in addition to the Army Family Pension. Challenging the said letter/order dated 11.06.2014, the petitioner has filed W.P.No.27834 of 2014, and this Court, by the abovesaid order dated 07.11.2016, has passed the order as extracted supra. As the said order of this Court, dated 07.11.2016 has not been complied with, the petitioner has preferred this Contempt Petition. In support of his submissions, learned counsel for the

petitioner has relied on a decision of a Division Bench of this Court (Madurai Bench) reported in 2018 (1) CWC 285 (Secretary to Government Vs. M.Alamelu) and contended that the petitioner cannot be denied the Family Pension of the State on the ground that she has been receiving the Army Family Pension and that she is entitled to receive the Family Pension both from the Army and also the State, as received by her husband.

4. The respondents have filed counter affidavit stating that after receiving the copy of this Court's order dated 07.11.2016, the respondents have taken necessary action to comply with the direction of this Court. The first and second respondents have instructed the third respondent who is the competent authority to disburse the Family Pension, to take further action on the order of this Court, in the light of G.O.(Ms).No.290, Public (Ex-Servicemen) Department, dated 05.04.2017. Subsequently, the third respondent has requested the Accountant General, Chennai, who is the competent authority to sanction the Family Pension of the writ petitioner as per the instructions of this Court and the first and second respondents. Thereafter, the Accountant General has sanctioned the Family Pension of the writ petitioner, vide order dated 27.10.2017. Based on the abovesaid sanction order, the third respondent-Treasury Officer, Kancheepuram, requested the writ petitioner to submit the following documents so as to disburse the Family Pension to her:

- (i) Bank Pass Book,
- (ii) Passport size photo - 2 copies,
- (iii) A.G. Authorisation (in original),
- (iv) Non-Re-Marriage Certificate,
- (v) Non-Employment Certificate, and
- (vi) Aadhar Card/Family Card/any other I.D. Proof.

Subsequently, when the Contempt Petition came up for hearing before this Court for hearing on 02.02.2018, this Court adjourned the case to 16.02.2018 for reporting compliance. Thereafter, when it was taken up for hearing on 16.02.2018, it was adjourned by two weeks and subsequently, when the Contempt Petition was taken up for hearing on 16.03.2018, this Court directed the respondents to file counter affidavit, which was subsequently filed before this Court. In order to comply with this Court's direction and to disburse the Family Pension to the petitioner, she has been requested to submit the above documents by Registered Post with Acknowledgement Card, by the third respondent and again she was requested for the same on 05.02.2018, 12.02.2018 and 19.02.2018. But the abovesaid documents are yet to be received from her till date. It is further stated that the third respondent is ready to implement this Court's direction if the petitioner produces the abovesaid documents to the Office of the third respondent.

5. When the Contempt Petition is taken up for consideration on 14.09.2018, the learned Government Advocate has filed the compliance report before this Court and he also produced the communication dated 14.09.2018

issued by the third respondent-Treasury Officer to the Government Pleader, High Court, Madras. He further stated that the third respondent-Treasury Officer has already taken necessary action immediately to make payment to the writ petitioner and a sum of Rs.1,77,664/- was sanctioned towards Family Pension and also the arrears, which were claimed to the writ petitioner on 11.09.2018 and that the same will be credited to the writ petitioner's Savings Bank Account through ECS on 14.09.2018. Learned Government Advocate also submitted that the future Family Pension will be paid to the writ petitioner continuously till she is eligible to receive the same.

6. Learned counsel for the petitioner submitted that the Family Pension has to be sanctioned from 08.05.1993 being the date of death of her husband and hence, according to the learned counsel for the petitioner, the order of this Court has not been fully complied with. This fact is denied by the learned Government Advocate appearing for the respondents, stating that eligible pension was sanctioned to her. He further submitted that even this Court, by the said order dated 07.11.2016 in W.P.No.27834 of 2014, has directed to pay the Family Pension, if she is found eligible.

7. In view of the abovesaid communication dated 14.09.2018 and as the above compliance report is filed by the respondents and in view of the sanction of Family Pension/arrears as stated above, I am of the opinion that

this Court cannot conduct roving enquiry with regard to the disputed facts in the Contempt Petition. In any event, the abovesaid order of this Court had been complied with by the respondents. As it is stated by the learned Government Advocate that the Family Pension is undertaken by the respondents to be paid to her continuously in future till she is eligible, I find that there is no need for any further adjudication in the matter. If at all the petitioner is aggrieved by the sanction of the above Family Pension and also with regard to her grievance that she has not been sanctioned the Family Pension from the date of death of her husband, it is open for the petitioner to challenge the above sanction of Family Pension, in accordance with law, if she is so advised.

8. With the above observations, the Contempt Petition is closed.

सत्यमेव जयते

SD/-

ASSISTANT REGISTRAR (COMM. CASES)

CS

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER (O.S.)

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CO/02/11/2018

1. The Secretary to Government,
Finance Department,
Fort St.George, Chennai-600 009.
2. The Director, Treasuries and Accounts,
Panagal Maligai, Saidapet,
Chennai-600 015.
3. The Treasury Officer,
District Treasury,
Kancheepuram District.



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R.SUBBIAH, J

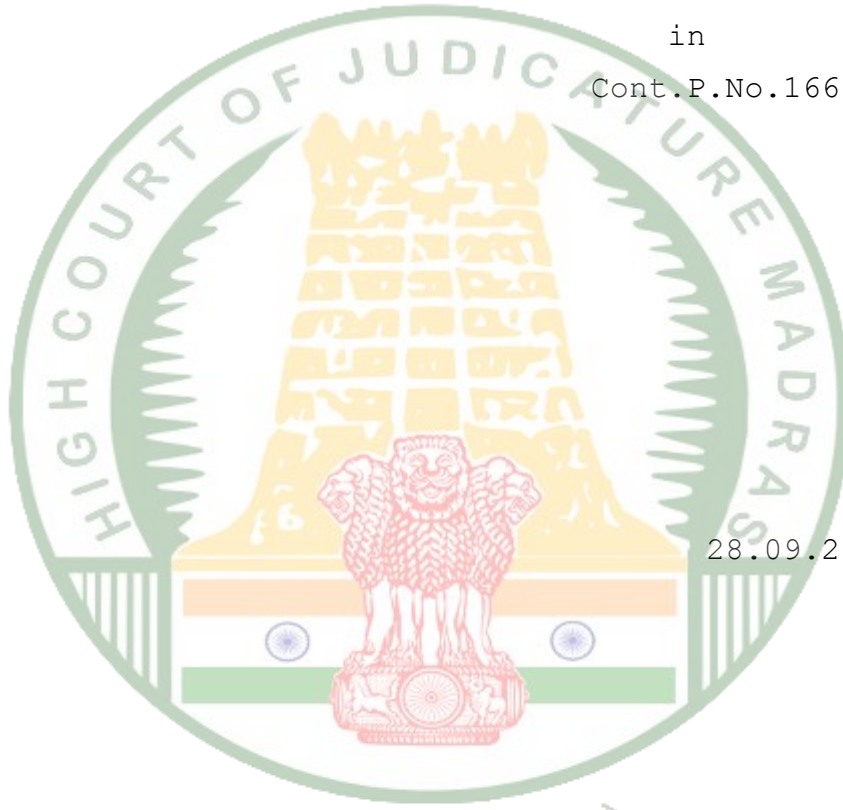
CS

Order

in

Cont.P.No.1666 of 2017

28.09.2018



सत्यमेव जयते

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