



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P (MD) No.3693 of 2018

and

WMP (MD) Nos.3841 & 3842 of 2018

P.Karuppayee Ammal

... Petitioner

Vs.

1.The Principal Accountant General (AE),
Chennai - 600 018, Tamil Nadu.

2.The State Accountant Officer,
261, Annasalai, Chennai - 600 018.

3.The District Collector,
Madurai District.

4.The District Treasury Officer,
Madurai, Madurai District,
Pin : 623 407.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the fourth respondent in Na.Ka.No.733/2018/F1 dated 31.01.2018 and quash the same and further direct the fourth respondent to continue the payment of Two family pensions to the petitioner both in P.P.O.No.COR.2212 and P.P.O.No.F3308941 without any deductions in either of the pension accounts.

For petitioner

: Mr.M.Gururaj

For respondents

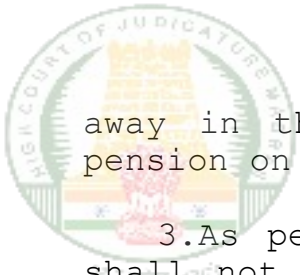
: Mr.M.Jeyakumar,
Addl., Govt., Pleader for R2, R3 & R4

Mr.P.Gunasekaran for R1

ORDER

Heard the learned counsel on either side.

2.The petitioner's husband passed away. He was working as a watchman in a corporation school. The petitioner is in receipt of family pension. Unfortunately, the petitioner's son also passed



away in the year 2011. The petitioner has been getting family pension on that account also.

3.As per Rule 49(3)(b), family pension admissible in this rule shall not be granted to a person who is already in receipt of a family pension or his family member. Therefore, the petitioner could not have been a recipient of double pension. Therefore, the impugned communication was rightly issued pointing out the ineligibility on the part of the petitioner to receive double pension. Therefore, the order impugned in this writ petition is sustained to this extent.

4.However, it will be most inequitable and it would cause great hardship to the petitioner if any recovery is permitted. The learned counsel appearing for the petitioner would submit that the petitioner is an illiterate woman and that she had filled up the application form with the help and advice of the local villagers for seeking family pension. The Hon'ble Supreme Court in the decision reported in (2015) 4 SCC 334 (*State of Punjab v. Rafiq Masih*), has held that recovery should not be ordered from pensionary benefits. Therefore, this Court holds that any order of recovery will be inequitable and shall not be made against the petitioner herein.

5.This writ petition is partly allowed to the extent as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(ADII)

/True Copy/

Sub-Assistant Registrar

To

- 1.The District Collector,
Madurai District.
- 2.The District Treasury Officer,
Madurai, Madurai District, Pin : 623 407.
- 3.The State Accountant Officer,
261, Annasalai, Chennai - 600 018.
- 4.The Principal Accountant General (AE),
Chennai - 600 018, Tamil Nadu.

+One cc to Mr.P.Gunasekaran, Advocate, SR.No.52160

+One cc to Mr.M.Gururaj, Advocate, SR.No.52606

+One cc to The special Government Pleader, SR.No.52985

skm

RL/8C/2P/SV/MMS/SAR4/6/4/2018

W.P(MD)No.3693 of 2018

and

WMP (MD) Nos.3841 &

3842 of 2018

01.03.2018