



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2018

CORAM :

WEB COPY

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P. (MD) No.57 of 2018  
and  
W.M.P. (MD) No.45 of 2018

R.Maryammal

... Petitioner

Vs.

1.The Senior Account Officer,  
Audit Office (Pension),  
O/o. Accountant General  
(Accounts and Entitlements)  
Tamilnadu, 361, Anna Salai,  
Teynampet,  
Chennai - 600 018.

2.The District Educational Officer,  
Theni District, Theni.

3.The Assistant Elementary Educational Officer,  
Bodinayakkanur,  
Theni District.

4.The Correspondent,  
Gandhiji Memorial Primary School,  
Uppukkottai,  
Bodinayakkanur Taluk,  
Theni District.

... Respondents

**Prayer:** Writ petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the order of the 1<sup>st</sup> respondent made in PEN 24/IV/PT.6867/T65660/EDA/2017-18/97127 dated 06.12.2017 and quash the same as it is arbitrary and illegal and in consequence to direct him to pay the family pension to the petitioner on and from 05.05.2012 with appropriate interest, within the time to be fixed by this Court and also to pay monthly pension thereafter as accordance with law.

For petitioner  
For Respondents

: Mr.K.Vijayanand  
: Mr.P.Gunasekaran, for R1  
Mr.J.Gunaseelan Muthiah, AGP  
for RR2 and 3  
Mr.V.R.Venkatesan for R4

**ORDER**

One Rajiah was working as Headmaster in the fourth respondent school. He retired on 31.05.1991. He passed away on 05.05.2012. He was receiving pension till his demise. The petitioner lodged a request with the authorities for disbursement of family pension to her. The petitioner's request was rejected by order dated 06.12.2017 on the ground that even as per her own representation, she got married to the said Rajiah during the subsistence of the first marriage with Grace Chellathai, who was none other than the sister of the petitioner herein. The same is assailed in this writ petition.

2.Mr.P.Gunasekaran, learned counsel for the first respondent contended that the writ petitioner has not approached this Court with clean hands. He drew the attention of this Court to the averment made in her representation dated 10.06.2017, which was to the effect that her marriage took place during the subsistence of the first marriage of Rajiah. He therefore pointed out that the order impugned in this writ petition cannot be taken exception to. He also highlighted the fact that the petitioner had described herself as an Indian Christian. Therefore, the marriage of a Christian can only be a Church marriage or a special marriage under the Special Marriage Act. In this case, no such material has been produced. He therefore wanted this Court to dismiss the writ petition.

3.This Court went through the entire material on record. It is true that the writ petitioner's representation dated 10.06.2016 is self-destructive. But the learned counsel appearing for the writ petitioner would seek to explain it away stating that the writ petitioner had merely signed on a representation that must have been prepared on the ill advice of a fellow villager.

4.The learned counsel for the petitioner placed considerable reliance on the judgment dated 23.12.2014 rendered by the District Munsif, Bodinayakanur in O.S.No.150 of 2012. This Court is of the view that the claim of the petitioner that she was the wife of late Rajiah merits acceptance for more than reasons than one. The family ration card of the said Rajiah is enclosed in the typed set of papers. The name of the first wife is incorporated therein. It was later substituted in 2009 and the petitioner's name was included. Likewise, electoral I.D. Card of the petitioner mentioned the husband's name. More than anything else, the Civil Court has declared that the petitioner is the legal heir of the said Rajiah. In the civil suit Ex.P8 dated 08.09.2010 was marked. It is a registered Will executed by Rajiah in favour of the petitioner. The copy of the same was produced for perusal of this Court. This Court went through the same. The contents of the said Will inspire the confidence of this Court. The said Rajiah has expressly stated that the petitioner herein is his second wife.



5. In view of the judgment rendered by the competent civil Court, the third respondent is directed to forward the application for grant of family pension in favour of the petitioner to the first respondent. The first respondent upon receipt of the same, is directed to sanction the family pension to the petitioner herein.

6. The writ petition is allowed accordingly. No costs.

Sd/-  
Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar

To

1. The Senior Account Officer,  
Audit Office (Pension),  
O/o. Accountant General  
(Accounts and Entitlements)  
Tamilnadu, 361, Anna Salai,  
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2. The District Educational Officer,  
Theni District.  
Theni.
3. The Assistant Elementary Educational Officer,  
Bodinayakanur,  
Theni District.

+1CC TO M/S.K.VIJAYAND, ADVOCATE, SR NO.48863  
+1CC TO M/S.P.GUNASEKARAN, ADVOCATE, SR NO.49305

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**MS/SV-MMS/SAR-4/23.04.2018/3P.6C**