



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A. (MD) .No.1013 of 2014
and
M.P. (MD) No.2 of 2014

Accountant General,
(Accounts & Entitlement),
Office of the Accountant General,
361, Anna Salai,
Chennai 18.

... Appellant

Vs.

1.N.Dhandapani
2.Minor Bhuvaneshwari
3.Minor Sai Mukesh
4.The Superintendent of Police,
District Police Officer,
Pudukkottai-622 001.
5.A.Aadhvan
(Minor Respondents 2 and 3 are
Represented by their Court Guardian
the first respondent herein)

... Respondents

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 14.08.2012 in W.P.(MD)No.4430 of 2012.

Prayer in WP(MD).4430/2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the 1st and 2nd respondents to pass orders for payment of family pension in respect of deceased D. Manjula Devi, Police Constable in favour of the minor petitioners 2 and 3.

For Appellant

: Mr.P.Gunasekaran

For Respondents 1 to 3

: Mr.K.Sekar

For Respondent No.4

: Mr.V.R.Shanmuganathan

Special Government Pleader

**JUDGMENT**

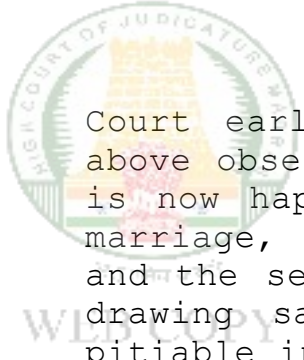
(Judgment of the Court was delivered by **T.S.SIVAGNANAM, J**)

Heard Mr.P.Gunasekaran, learned counsel appearing for the appellant, Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 3 and Mr.K.Sekar, learned counsel appearing for the fourth respondent.

2.This appeal is directed against the order passed in W.P. (MD)No.4430 of 2012 dated 14.08.2012. A reading of the facts of the case, portrays a very pitiful state of affairs where the respondents 2 and 3 who were then minors, lost their mother. The charge was, father/fifth respondent herein, had murdered their mother and it was shown as if the mother had committed suicided by hanging herself.

3.The first respondent is the maternal grandmother under whose care and custody the respondents 2 and 3 are there. The first respondent is the Court appointed guardian and entitled to prosecute the matter before the Court. The mother of the respondents 2 and 3 was also employed as a police constable like their father/fifth respondent. The respondents 1 to 3 approached the Writ Court seeking for a direction to the appellant to pass orders for payment of family pension to them on account of the demise of D.Manjula Devi, police constable, mother of the respondents 2 and 3. The Court issued a direction to the appellant to do so and in that process, imposed a cost of Rs.20,000/- (Rupees Twenty Thousand only) on the appellant.

4.The learned counsel for the appellant strenuously contented that though the case deserves sympathetic consideration, the appellant is bound by set of rules and regulations, which they have to scrupulously follow. The fifth respondent husband is now acquitted by the criminal Court. Though it is stated that a revision against acquittal is filed by the respondents 1 to 3, there is no record to substantiate the same. The acquittal of the fifth respondent of the criminal case entitles him to receive the family pension payable on account of death of his wife viz., D. Manjula Devi. The question is as to whether we should permit him to enjoy the benefit of the family pension. We are of the considered view that the answer should be that the fifth respondent should not be permitted to withdraw any portion of the family pension payable on account of the demise of D.Manjula Devi. We are inclined to make such observation not only with a view of extending compassion on the respondents 2 and 3 but also because he has given a letter of undertaking on 27.02.2011 that the family pension may be paid to the children. After the acquittal from the criminal charges, the fifth respondent was paid 1/3 rd of the retirement pension payable on the demise of D.Manjula Devi. The Government also could have directed the parties, to approach the



Court earlier. One more reason which convinces us to make the above observation is on account of fact that the fifth respondent is now happily to remarried another police constable and out of marriage, they have got two children. Both the fifth respondent and the second wife are working in the Police Department and are drawing salary. The condition of the respondents 2 and 3 is pitiable in the sense, the maternal grandfather who is also a very aged person is finding difficult to bring up the children on account of financial need and both the children are school going children. They require monetary support apart from the moral support which can be given by the first respondent. In view of the undertaking dated 27.02.2009 given by the fifth respondent, we direct the appellant to treat the present case as one of the rarest of rare case and disburse the family pension payable on the demise of D.Manjula Devi in name of the second respondent, viz., Bhuvaneshwari, who is the elder of the two children. The amount shall be utilised by the first respondent for the education and other purposes of the respondents 2 and 3.

5. In the light of the above reasons, we find that there is no case made out for imposition of cost on the appellants. That portion of the order directing payment of cost by the appellant stands deleted. The respondents 1 to 3, in order to facilitate the implementation of the order, are directed to submit the family pension proposal in the proper format and submit it to the fourth respondent, who is directed to forward the proposal to the appellants within a period of one week from the date on which the proposal is submitted in full form. On receipt of the such proposal, the appellant shall sanction the family pension and effect payment within a period of two weeks thereafter. It is made clear that this order shall not be treated as precedent as it is passed in the peculiar facts and circumstances of the case. With the above direction, the writ appeal is allowed. No Costs. Consequently, M.P.(MD)No.2 of 2014 is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

The Superintendent of Police,
District Police Officer, Pudukkottai-622 001.

+1. C.C. to Mr.P.Gunasekaran, Advocate in SR.No.55268
+1. C.C. to Mr.K.Sekar, Advocate in SR.No.54653