



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2018

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.21986 of 2016

and

W.P. (MD) No.622 of 2017

and

W.M.P. (MD) No.17815 of 2017 in W.P. (MD) No.622 of 2017

in W.P. (MD) No.21986 of 2016

N.Selvi

...Petitioner

Vs.

1. The Director,  
Municipal Administrative Commission,  
Chepauk,  
Chennai - 5.

2. The Commissioner,  
Theni Allinagaram Municipality,  
Theni.

3.Sharmila

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to sanction family pension of the petitioner's husband late.Prithviraj to the petitioner based on the petitioner's representation dated 28.12.2016 within the period that may be stipulated by this Court.

|                |                            |
|----------------|----------------------------|
| For Petitioner | : Mr.V.P.Rajan             |
| For R1         | : Mrs.S.Srimathy           |
|                | Special Government Pleader |
| For R2         | : MS.K.Hemakarthikeyan     |
| For R3         | : Mr.A.Haja Mohideen       |

W.P. (MD) No.622 of 2017

Sharmila

...Petitioner



1. The Commissioner,  
Alli Nagaram Corporation,  
Theni District.

2. N.Selvi

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to grant my due shares in the death and service benefits with interest for the death of petitioner's father late Prithviraj based on the decree and judgment dated 04.10.2002 passed in O.S.No.137 of 2004 on the file of the District Munsif Court, Periyakulam, Theni District, be considering the petitioner's representation dated 14.12.2016 within the period stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen

For R1 : Ms.Hema Karthikeyan

For R2 : Mr.V.P.Rajan

#### COMMON ORDER

One Prithviraj was employed as a Watchman under the second respondent Municipality. He originally married one Prema. After divorcing her, got married to one Selvi. The said Prema gave birth a girl child by name Sharmila. Now, the fight is between the second wife and the daughter of the first wife. Seeking share in the death and service benefits for the death of the late Prithviraj, Sharmila has filed WP(MD) No.622 of 2017. Seeking direction to the second respondent to sanction family pension, Selvi has filed WP(MD) no.21986 of 2016.

2.This Court is of the view that the law is very clear as regards the family pension. It is payable to the spouse of the deceased. Only if the spouse is not available, other legal-heir can claim the family pension and other eligible benefits. Here, the spouse of the deceased, namely, Selvi is very much alive. Therefore, the family pension will have to be paid only to the spouse by name Selvi. Of course, sharmila being a daughter of the deceased is entitled to 50% in all other service benefits.

3.Therefore, the official respondents are directed to disburse the benefits in accordance with law. The pensionary and other payable benefits shall be disbursed to the respective parties of eight weeks from the date of receipt of a copy of this order.



4. Accordingly, the Writ Petitions are allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/True Copy/

Sub Assistant Registrar

To

The Director,  
Municipal Administrative Commission,  
Chepauk,  
Chennai - 5.

- + 1 cc TO Mr.V.P.Rajan , Advocate in SR No. 57580
- + 1 cc TO Ms.K.Hema Karthikeyan , Advocate in SR No. 57761
- + 1 cc TO Mr.A.Haja Mohideen , Advocate in SR No. 57587
- + 1 cc TO The Special Government Pleader in SR No. 58415

mm

AE/SKN RSK/SAR1/05.07.2018/3P/6C

**W.P. (MD) No.21986 of 2016**  
**and**  
**W.P. (MD) No.622 of 2017**  
**23.03.2018**