



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2018

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.1 of 2013

Rajeswari

... Petitioner

-vs-

1. The State of Tamil Nadu,
Rep. By its Secretary to Government,
Finance (Pension) Department,
Fort St. George,
Chennai-9.

2. The Principal Accountant General
(Accounts & Entitlements)
No.261, Anna Salai,
Chennai-18.

3. The Additional Assistant Elementary
Educational Officer,
Palani Rural,
Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the second respondent to disburse the family pension payable towards the death of the petitioner's husband Pavunraj with effect from 27.03.2012 with interest.

For Petitioner : Mr.T.Lenin Kumar

For R1 : Mrs.V.P.M.Vaishnavi,
Government Advocate

For R2 : Mr.P.Gunasekaran

O R D E R

The relief sought for in this writ petition is for a direction to direct the second respondent to disburse the family pension payable towards the death of the petitioner's husband Pavunraj with effect from 27.03.2012 with interest.



2. The learned counsel appearing on behalf of the petitioner states that the writ petitioner married the deceased Government employee Late. Shri. Pavunraj on 30.11.1971 as per the Hindu Rites and Customs. The writ petitioner admits that her husband married her as a second wife. The first wife of the deceased employee one Smt. Shanmugathai is none other than the sister of the writ petitioner. The writ petitioner married the deceased employee as second wife only to take care of her sister Shanmugathai. Since the first wife of the deceased employee was suffering from Cancer. The sister of the writ petitioner and the wife of the deceased employee Shanmugathai died on 01.06.1993. In these circumstances, the Principal Accountant General, vide letter, dated 07.02.2001 stated that the second marriage is illegal as per the Hindu Marriage Act, since the first wife of the deceased was alive at the time of marriage of the writ petitioner with the deceased employee.

3. It is an admitted fact that the date of marriage between the writ petitioner and the deceased employee was on 30.11.1971 and the first wife of the deceased passed away on 01.06.1993. Thus, it is factually established that the second marriage between the deceased employee and the writ petitioner was solemnized during the life time of the first wife. This being the factum, the marriage of the writ petitioner with the deceased employee was null and void and accordingly, the decision taken by the respondents in not settling the family pension is in accordance with law and there is no infirmity as such. The writ petitioner being the second wife and got married during the life time of the first wife of the deceased employee is not entitled for family pension under the provisions of the Tamil Nadu Pension Rules and the writ petition is devoid of merits.

4. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

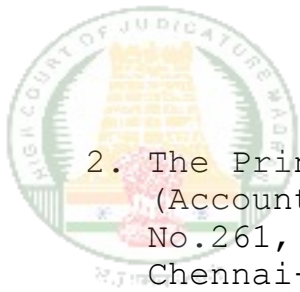
Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu,
Finance (Pension) Department,
Fort St. George,
Chennai-9.



2. The Principal Accountant General
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3. The Additional Assistant Elementary
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+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 51650
+ 1 CC TO Mr.P.GUNASEKARAN, ADVOCATE IN SR No. 51762
+ 1 CC TO Mr.T.LENIN KUMAR, ADVOCATE IN SR No. 51456

AM

TE/KK/SAR-3 : 13/03/2018 : 3P/7C

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26.02.2018