



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.2720 of 2011

and

M.P.(MD)No.1 of 2011

Thangavelu

.. Petitioner

-vs-

1. The Special Commissioner and
Commissioner of Archives and Historical Research,
Tamil Nadu Archives, Egmore,
Chennai.

2. Kalvikarasi

3. Poun

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the first respondent in No.8015/Nir.3/2009 dated 07.01.2011 and quash the same and directing the first respondent to stop the pension to the second respondent from the terminal benefits of Chinnakalai.

For Petitioner : Mr.T.A.Ebenezer

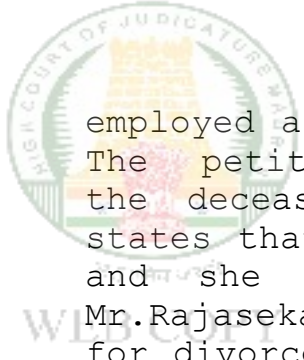
For 1st Respondent : Mr.A.Muthukaruppan
Additional Government Pleader

For RR 2 & 3 : No Appearance

ORDER

The order passed by the first respondent in proceedings No.8015/Nir.3/2009, dated 07.01.2011 is sought to be quashed in this writ petition and a further direction is sought for to direct the first respondent to stop the pension to the second respondent from the terminal benefits of Mr.Chinnakalai who had already passed away.

<https://hcservices.ecourts.gov.in/hcservices/>
2. The learned counsel appearing on behalf of the writ petitioner states that his brother Sri.Late Chinnakalai, was



employed as an Assistant Librarian and passed away on 06.08.1998. The petitioner admits that the second respondent is the wife of the deceased employee Sri.Chinnakalai. However, the petitioner states that the second respondent was not living with his brother and she was committing adultery and was living with one Mr.Rajasekar. The brother of the writ petitioner had filed O.P. for divorce on the ground of adultery and the same was pending at the time of the death of Late. Sri.Chinnakalai. Under these circumstances, the writ petitioner has filed the present writ petition stating that the second respondent was not living with his deceased brother and further the deceased employee Chinnakalai filed O.P. for divorce which was pending at the time of his death.

3. This Court is of the opinion that family pension can be provided only to the spouses, as per the provisions of the Tamil Nadu Pension Rules, 1978, and the person other than the spouse is not entitled for family pension. Rule 49 of the Tamil Nadu Pension Rules, 1978, clarifies the position. Thus the wife of the deceased employee Chinnakalai alone is entitled for family pension. In respect of the O.P. filed against the second respondent for dissolution of marriage, the same was pending at the time of the death of the deceased employee Sri.Chinnakalai. In the absence of any decree of divorce, the second respondent remains as a legally wedded wife of the deceased employee. Thus, the writ petitioner being the brother of the deceased employee cannot have any *locus standi* either to claim family pension or to stop the family pension already sanctioned in respect of the wife of the deceased.

4. The above position was clarified by the Tamil Nadu Administrative Tribunal in O.A.Nos.4081 and 4574 of 2000 and 3049 of 2003, in order, dated 26.05.2004. As per the orders of the Tribunal, the authorities have passed orders granting shares in respect of the terminal benefits and granted family pension in favour of the second respondent. Thus, this Court is of the opinion that there is no infirmity in respect of the order impugned in the present writ petition, dated 07.01.2011. Further, the writ petitioner has no *locus standi* to claim family pension in accordance with the provisions of the Tamil Nadu Pension Rules, 1978.

5. Accordingly, this writ petition is devoid of merits and stands dismissed. Consequently, connected miscellaneous petition is also dismissed. However, there shall be no orders as to costs.

Sd/-

Assistant Registrar (RTI)



The Special Commissioner and
Commissioner of Archives and Historical Research,
Tamil Nadu Archives, Egmore,
Chennai.

+ 1 CC TO Mr.T.A.EBENEXER, ADVOCATE IN SR No. 40472
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 40502

PJL
TE/SV-MMS/SAR-1 : 22/01/2018 : 3P/4C

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