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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.01.2018
CORAM:
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P(MD)No.3305 of 2011

R.Therasammal ... Petitioner

Vs.

1.The Accountant General (AE)
No.361, Anna Salai, Chennai.

2.The Assistant Director of Fishery (Marine)
Ganapathy Nagar, Thanjavur.

3.The Treasury Officer,
Huzur Treaury,
Court Road, Thanjavur. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Lr.No.AG(AE) Legal Cell/23/AN/269 dated 18.05.2010 passed by the 1st Respondent and quash the same and directing the Respondents to sanction the Family Pension to the Petitioner as the legal heir of T.R.Rajamanickam and also disburse the arrears of Family Pension to the petitioner.

For Petitioner : Mr.G.Karnan
For Respondent -1 : Mr.P.Gunasekaran
For Respondents 2 & 3 : Mr.R.Sethuraman,
Special Government Pleader

ORDER

The order dated 18.05.2010 passed by the first respondent is sought to be quashed with a further direction to sanction the family pension to the petitioner as the legal heir of Late Shri.T.R.Rajamanickam and disburse arrears of family pension to the petitioner.

2. The husband of the writ petitioner late Shri. Rajamanickm, was employed as a Driver in the second respondent Department and retired from service, on attaining the age of superannuation on 30.08.2015. The deceased employee was having two wives and admittedly the writ petitioner is the second wife of the deceased employee and the husband of the writ petitioner late Shri.Rajamanickam, passed away on 27.08.1999, till then he was receiving the pension as applicable under the pension rules.

3.The learned counsel appearing for the writ petitioner made submissions that the writ petitioner is the second wife of the deceased employee. The first wife also died in the year 1981. However, the marriage between the writ petitioner and the deceased

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employee was solemnised in the year 1965 during the life time of the first wife. In other words, the second marriage was solemnised when the first wife was alive. Thus, this Court is of an opinion that the second marriage solemnized between the deceased employee and the writ petitioner is null and void. This apart, the writ petitioner being the second wife of the deceaed employee is not entitled to claim any family pension under the provision of the Tamil Nadu Pension Rules.

4.The impugned order dated 18.05.2010 clarifies that the first wife expired on 24.06.1981 and the writ petitioner married the deceased employee in the year 1965 itself, more specifically, during the life time of the first wife. Then, the writ petitioner is not eligible for family pension under the Tamil Nadu Pension Rules.

5.It is further clarified that Rule 49 (7) (A) of the Tamil Nadu Pension Rules permits to allow family pension only to the legally wedded wives and therefore, there is no question of adopting the said rule in the case of the writ petitioner, as marriage between the petitioner and the deceased employee was a nullity.

6.Thus, the claim of the writ petitioner seeking family pension cannot be considered, in view of the fact that the marriage between the deceased employee and the writ petitioner was solemnized during the lifetime of the first wife, which is a nullity in the eye of law.

7.Accordingly, the writ petitioner stands dismissed. However, there shall be no orders as to costs.

Sd/-
Assistant Registrar(Crl. side)

/True Copy/

Sub Assistant Registrar

To
1.The Accountant General (AE)
No.361, Anna Salai, Chennai.

2.The Assistant Director of Fishery (Marine)
Ganapathy Nagar, Thanjavur.

3.The Treasury Officer,
Huzur Treaury,
Court Road, Thanjavur.

+1cc to M/S.P.Gunasekaran, Advocate SR.No. 44245
+1cc to Special Government Pleader, SR.No. 44334

ORDER MADE IN
W.P(MD)No.3305 of 2011
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