

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.11.2019

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No. 10876 of 2013

K. Seetha

..Petitioner

Vs

1. Principal Accountant General
(Accounts & Entitlements) Tamil Nadu,
361, Anna Salai, Chennai-600018.

2. The Accounts Officer
Office of the Accountant General
(Accounts & Entitlements) Tamil Nadu,
361, Anna Salai, Chennai-600018.

3. The Under Secretary,
Legislative Assembly, Secretariat,
Fort St.George, Chennai-600009.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus calling for the records of the second respondent relating to Pr AG (A&E) Legal Cell /AN/143/12-13/1551 dated 12.12.2012, quash the same and direct the respondents 1 and 2 to grant family pension to the petitioner as the second wife of E. Kanniappan, retired Duffadar, Legislative Assembly Secretariat (PPO No. C/39 Sec) as per Rule 49 (a) of the Tamil Nadu Pension Rules from 12.12.2001, the date of death of E.Kanniappan along with statutory interest.

For Petitioner : M/s. R.Meenal

For Respondents : Mrs. Hema Muralikrishnan -R1 &R2
Mr. B. Anand,GA.- R3

O R D E R

Writ Petition is filed for issuance of Writ of certiorarified Mandamus calling for the records of the second respondent relating to Pr AG (A&E) Legal Cell /AN/143/12-13/1551 dated 12.12.2012, quash the same and direct the respondents 1 and 2 to grant family pension to the petitioner as the second wife of E. Kanniappan, retired Duffadar, Legislative Assembly Secretariat (PPO No. C/39 Sec) as per Rule 49 (a) of the Tamil Nadu Pension Rules from 12.12.2001, the date of death of E.Kanniappan along with statutory interest.

2. Heard both sides and perused the records.

3. The case of the petitioner is that the petitioner is the 2nd wife of the deceased Kanniappan. The petitioner's request for family pension was rejected by the 1st respondent by an impugned order, stating that the 1st wife of the deceased Kanniappan was not legally divorced. According to the writ petitioner, she is entitled for family pension as the 1st wife of said deceased Kanniappan namely Kamala was died on 20.09.2007 and the writ petitioner is recognized as 2nd wife of the deceased Kanniappan.

4. During the course of arguments, the learned counsel for the petitioner submitted that the said deceased Kanniappan's first wife Kamala died. In view of the rejection order passed by the respondent for granting family pension to the writ petitioner, the respondent has not settled the other eligible benefits to the writ petitioner, which she is entitled to.

5. On the other hand, the learned Government Advocate would submit that the impugned order passed by the 1st respondent is perfectly valid since the 1st wife of the deceased had not obtained divorce before any appropriate forum. Therefore the writ petitioner is not entitled to get family pension as claimed by her. The learned Government further submitted that only Legal Heirs of the deceased Kanniappn are entitled for the family pension as per Rules and it is for them to approach the concerned authorities to seek relief.

6. In view of the submissions made by both the counsels, it is clear that writ petitioner is not entitled for family pension as claimed by her. But insofar as the alternative benefits are concerned, this Court grants liberty to the Writ petitioner to approach the 3rd respondent and seek remedy. Accordingly, the writ petitioner is directed to submit a fresh representation before the 3rd respondent within a period of two weeks from the

date of receipt of a copy of this order and on receipt of the same, the 3rd respondent shall consider and pass orders on merits and in accordance with law within a period of 12 weeks thereafter. It is made clear that the 3rd respondent shall consider the representation of the writ petitioner only if it is made within a stipulated time.

7. In the result, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. Principal Accountant General
(Accounts & Entitlements) Tamil Nadu,
361, Anna Salai, Chennai-600018.

2. The Accounts Officer
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(Accounts & Entitlements) Tamil Nadu,
361, Anna Salai, Chennai-600018.

3. The Under Secretary,
Legislative Assembly, Secretariat,
Fort St.George, Chennai-600009.

+lcc to Mrs.R.Meenal, Advocate Sr.97333
+lcc to the Government Pleader Sr.98072
+lcc to Mrs.Hema Muralikrishnan, Advocate Sr.97036

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srg 26/12/2019

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