

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2019

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.19146 of 2013
and
M.P.Nos.1 and 2 of 2013

A.RajarathinamPetitioner

Vs

1.The Principal Accountant
General (Accounts and Entitlement),
Tamilnadu, Teynampet, Chennai - 18.

2.The Superintendent of Police,
District Police Office,
Coimbatore.

3.The Commissioner,
Coimbatore City,
Coimbatore -18.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus, to call for the records of the 1st respondent relating to impugned order dated 02.05.2013 vide proceedings 32/I/Ord 7013/2013-14 and to quash the same and further direct the respondents to continue to pay the family pension to the petitioner.

For Petitioner

: Ms.V.S.Usha Rani

For Respondents

: Mrs.T.Selva Rani for R1

Mr.J.Ramesh

Additional Government Pleader

for R2 & R3

ORDER

The writ petition has been filed to quash the order of the first respondent dated 02.05.2013 vide proceedings 32/I/Ord 7013/2013-14.

2. According to the petitioner, she married one Shanmugam in the year 1968 and he died on 07.03.1982 in Kilpauk Medical Hospital, Chennai. After the demise of Shanmugam, the petitioner married one Annappan according to the Hindu Rites and Customs and through the lawful wedlock, two female children namely Kamatchi and Kanimozhi were born and they

lived along with the said Annappan till his life time. The said Annappan died due to diabetic on 06.12.1996 in C.M.C.Hospital, Coimbatore. Thereafter, the petitioner had received the family pension as a legally wedded wife of Annappan, till 2001. It is further stated that one A.Rajalakshmi, filed a suit in O.S.No.163/2003 seeking for a declaratory relief to declare herself as a legally wedded wife of Annappan, subsequently, the said suit was dismissed as abated. According to the petitioner, the first respondent passed the impugned order by stating that as per the judgment and decree passed in O.S.No.163/2003, Smt.A.Rajalakshmi, is the legally wedded wife of Annappan and therefore, the writ petitioner is not entitled for the family pension and her daughters also not eligible for the same, since they got married. Challenging the same, the present writ petition.

3. The learned counsel appearing for the petitioner would submit that the reasons stated in the judgment and decree made in O.S.No.163/2003, is totally incorrect and the respondents have misunderstood the said judgment and passed the impugned order. Hence, the same is liable to be quashed.

4. The learned counsel appearing for the first respondent would submit that the writ petitioner has no legal right to claim the family pension of the deceased Annappan, since she was not the legally wedded wife. While so, her daughters Kamatchi and Kanimozhi are also not entitled for family pension since they got married. Therefore, the said order passed by the first respondent is perfectly in law.

5. The learned Additional Government Pleader appearing for the respondents 2 and 3 would submit that the writ petitioner has received the family pension for the period from 07.12.1996 to 30.12.1999.

6. On perusal of the impugned order passed by the first respondent, it would reveal that the claim made by the writ petitioner seeking family pension was rejected only based on the judgment and decree passed in O.S.No.163 of 2003. It is an admitted fact that the aforesaid suit was filed by Smt.A.Rajalakshmi seeking for a declaration to declare herself as a legally wedded wife of Annappan. Pending disposal of the aforesaid suit, the said Rajalakshmi died and the same was dismissed as abated. The respondents have not considered the above facts and on contrary, the respondents have misunderstood that the suit was decreed in favour of A.Rajalakshmi. Therefore, the writ petitioner is not entitled for Family pension is illegal, unsustainable and contrary to the aforesaid decree.

7. In the light of the above facts and circumstances and the submissions made by the learned counsel on either side, this Court at this stage, without expressing any view on merits, is inclined to pass the following orders :

(i) The order impugned in this writ petition is set aside and the matter is remitted back to the first respondent, who shall pass orders afresh, after affording an opportunity of personal hearing to all necessary parties, in accordance with law .

(ii) The writ petitioner shall furnish necessary documents to prove that she is the legally wedded wife of the aforesaid deceased Annappan, before the first respondent within a period of two weeks from the date of receipt of a copy of this order.

(iii) The third respondent shall conduct an enquiry and submit a report to the first respondent.

(iv) Based on the aforesaid report, the first respondent shall pass orders on merits and in accordance with law as expeditiously as possible.

8. With the above directions the writ petition is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Accountant
General (Accounts and Entitlement),
Tamilnadu, Teynampet,
Chennai - 18.

2.The Superintendent of Police,
District Police Office,
Coimbatore.

3.The Commissioner,
Coimbatore City,
Coimbatore -18.

+1cc to M/s.V.S.Usha Rani , Advocate SR.No. 103315
+1 cc to Government Pleader Sr.No. 103663

W.P.No.19146 of 2013

A.SK(22/01/2020)