

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3993 of 2019 and
WMP.No.4450 of 2019

M.Saroja

... Petitioner

Vs.

1.The Chairman,
Chennai Port Trust,
Chennai - 600 001.

2. D.Sujatha ... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the 1st respondent to consider the petitioner's representation dated 14.12.2018 and reminder representation dated 31.01.2019 and to pay half of the terminal benefits and half pension to the petitioner as per Pension rules of the 1st respondent.

For Petitioner : M/s.R.Sankarasubbu

O R D E R

Even to issue a direction to consider the representation submitted by the writ petitioner, it is a precondition that the petitioner should establish a legal right. In the absence of any legal right, the petitioner would not be entitled to file a writ petition, for the purpose of issuing a direction to consider the representation.

2.The issues and the relief sought for in the present writ petition must provide a cause and a legal right for the purpose of issuing a direction by this Court under Article 226 of the Constitution of India.

3. Admittedly, the writ petitioner is the mother of the deceased employee Mr.Sugumaran, who was Employed as Technical Grade I in Chennai. The 2nd respondent is the wife of the deceased employee. During the lifetime of the wife and the

deceased employee, the writ petitioner, who is the mother cannot claim any family pension. The Family pension is to be sanctioned and disbursed in accordance with the Pension Rules/Scheme in force. When the legally wedded wife is alive, the family pension cannot be divided or sanctioned in favour of the mother. If at all, aged parents are unable to maintain themselves, they can approach the competent authority under the provisions of the Senior Citizen Maintenance Ac. However, the Family pension cannot be claimed contrary to the provisions of the Family Pension Rules or the Schemes.

4. This being the cause advanced in the present writ petition, this Court is of an opinion that the writ petitioner is at liberty to approach the competent authorities under the relevant provisions of the Act and in respect of Family Pension, this Court cannot issue any direction even to consider the representation as the writ petitioner has not established even semblance of legal right, so as to consider the relief as sought for in the present writ petition.

5. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Kmm/kak

To

The Chairman
Chennai Port Trust
Chennai - 600 001.

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