

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.03.2019
CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
And
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.A.No.1974 of 2018
And
C.M.P.No.15712 of 2018

1.State of Tamilnadu.
Rep. by its Secretary to Government,
Municipal Administration and Water Supplies Department,
Fort St.George, Chennai - 600 009.

2.The Assistant Director,
Panchayat Union Pension,
Local Fund Audit,
Kuralagam 4th Floor,
Chennai - 108. ... Appellants

Vs.

1.M.Pushpam

2.The Commissioner,
Gudiyatham Panchayat Union,
Vellore District. Respondents

Prayer:

Writ appeal filed under Clause 15 of the Letters Patent against the order of this Court dated 16.07.2015 made in W.P.No.21354 of 2015.

Prayer in W.P.No.21354 of 2015:

Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to calling for the entire records connected with the order of the 2nd respondent made in Mu.Mu.No.29845/Do.O.O.Ko(9)/2014 dated 18.11.2014 and quash the same and consequently direct the respondents to pay the Family Pension to the petitioner from the date of her husbands death on 28.4.2014.

For Appellants : Mrs.A.Sri Jayanthi
Special Government Pleader
For Respondents : Mr.S.Sathiachandran for R1
No Appearance for R2

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN,J.)

The order denying family pension to the first respondent on the ground that she is in receipt of the Ex-Servicemen pension was set aside by the learned Single Judge. The order is under challenge at the instance of the State.

2.When the appeal is taken up for hearing, the learned counsel for the first respondent produced a copy of the order in G.O.(Ms.) No.290, Public (Ex-Servicemen) Department, dated 05.04.2017, sanctioning pension to the first respondent.

3.The Government issued the order in view of the amendment made to Rule 49 (13-B) of the Tamil Nadu Pension Rules, 1978. The amendment was made to enable the spouse of the State Government Employees to draw two family pensions one for the military and the other for the services rendered under the State Government.

4.Since the Government has already sanctioned pension to the first respondent taking into account the amendment made to the Tamil Nadu Pension Rules, 1978, nothing survives for factual adjudication.

5.Since the matter was delayed only on account of the State, we direct the appellants more particularly, the first appellant to ensure that the entire arrears of pension is paid to the first respondent by 30th June, 2019. The current monthly pension shall be paid to the first respondent every month without default.

6.The intra court appeal is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/--

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

pri/ms

To

1.The Commissioner,
Gudiyatham Panchayat Union,
Vellore District.

2.The State of Tamilnadu.
Rep. by its Secretary to Government,
Municipal Administration and Water Supplies Department,
Fort St.George, Chennai - 600 009.

3.The Assistant Director,
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Local Fund Audit,
Kuralagam 4th Floor,
Chennai - 108.

+1 cc to Government Pleader SR.NO. 27479

+1cc to Mr.S.Sathiachandran , Advocate SR.No. 27599
(30/04/2019)

W.A.No.1974 of 2018
And
C.M.P.No.15712 of 2018

A.SK(29/04/2019)



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