

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.03.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16917 of 2018

C.Roselin

.. Petitioner

..VS..

- 1.The Director of School Education,
EVK Sampath Salai,
DPI Campus, College Road,
Chennai.
- 2.The Chief Educational Officer,
Thiruvallur District,
Thiruvallur - 602 001.
- 3.The Headmaster,
M.F.V.Boys Higher Secondary School,
Arani - 601 101.
- 4.Mr.Christopher,
Lab Assistant (Retd.,)
MFV Boys Higher Secondary School,
Arani - 601 101.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st to 3rd respondents to include the petitioner's name the Family Pension Scheme of the 4th respondent.

For Petitioner :M/s.S.Sridevi

For Respondent :Mr.A.Raja Perumal

Additional Government Pleader
for R1 & R2

O R D E R

The relief as such sought for in the present writ petition is for a direction to direct the respondents 1 to 3 to include the petitioner's name in the Family Pension Scheme of the 4th respondent, enabling the writ petitioner to get Family Pension.

2. Admitted facts are that the writ petitioner married the 4th respondent who was employed as Lab Assistant in Higher Secondary School during the year 1986 and a decree of dissolution of marriage was obtained by the writ petitioner against the 4th respondent on 13.02.2007. In other words, the writ petitioner divorced the 4th respondent on 13.02.2007. Subsequently, on 30.11.2017, the writ petitioner attained the age of superannuation and retired from service.

3. The learned counsel for the writ petitioner states that the writ petitioner was receiving the monthly maintenance amount from the 4th respondent till he attained the age of superannuation. Therefore, the writ petitioner made a representation to grant Family Pension in accordance with the Pension Rules in force. The grievance of the writ petitioner is that the claim of the writ petitioner has not been considered and therefore, the present writ petition is filed.

4. The short legal question is to be considered in the present writ petition is that whether a divorced wife is entitled for Family Pension or not. Even as per the affidavit filed by the writ petitioner, she got a decree of divorce on 13.02.2007 in F.C.O.P.No.1119 of 2005 and she was receiving the maintenance amount pursuant to the order passed on 18.07.2008 in Maintenance Case No.454 of 2007. Thus, the writ petitioner lost her status as the wife of the 4th respondent by virtue of the decree of dissolution of marriage granted by the Competent Court of Law on 13.02.2007 in O.P.No.1119 of 2005.

5. The learned counsel for the writ petitioner states even a divorced wife can be nominated in the Service Register.

6. The learned Additional Government Pleader brought to the notice of this Court that the 4th respondent has not nominated the writ petitioner in his Service Register. This apart, the 4th respondent is now receiving the pension and pensionary benefits and the question of considering grant of family pension would arise only after the lifetime of the 4th respondent. This apart, the divorced wife will not come within the meaning of "family". Thus, family pension cannot be considered in favour of the writ petitioner as the matrimonial relationship between the writ petitioner and the 4th respondent had already ended by virtue of the order of dissolution of marriage. Under these circumstances, even after the lifetime of the 4th respondent the case of the writ petitioner cannot be considered for the purpose of grant of family pension under the Tamil Nadu Pension Rules, 1978. Further there is no provision under the Tamil Nadu Pension Rules 1978 to grant family pension to the divorced wife. This being the legal position, the claim of the writ petitioner deserves no merit consideration.

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

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

Pns

To

1. The Director of School Education,
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MFV Boys Higher Secondary School,
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+1 CC to Ms. S. Sridevi, Advocate sr 21305.

+1 CC to The Govt. Pleader sr 20979

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MR (CO)
SP (04/04/2019)

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