

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.17199 of 2018

Dhanalakshmi

... Petitioner

Vs.

1. The Principle Accountant General
(A& E)
AG's Office Complex
361 Anna Salai, Rostrevor Garden,
Teynampet, Chennai.

2. The District Collector,
Perambalur.

3. The Block Development Officer,
Veppur Panchayat Union Office,
Veppur, Kunnum Taluk,
Perambalur District.

4. Mrs. Jothi

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 to provide all retirement benefits including the family pension and all other benefits to the petitioner for the death of her husband's Mr.Dhanarasu (retired Deputy Block Development Officer at Veppur), on considering the petitioner's representation dated 31.03.2018.

For Petitioner : M/s. Usha Ramman

For Respondents : M/s. T.S.Selva Rani (for R1)
Mr. R.S. Selvam (For R2 & R3)
Government Advocate
Mr. C. Kalaiselvan (For R4)

O R D E R

This Writ Petition has been filed by the petitioner, seeking for the issuance of Writ of Mandamus, to direct the respondents 1 to 3 to provide all retirement benefits including the family pension and all other benefits to the petitioner for the death

of her husband's Mr.Dhanarasu (retired Deputy Block Development Officer at Veppur), on considering the petitioner's representation dated 31.03.2018.

2. The petitioner claims that she is the wife of the deceased employee, namely Mr.Dhanarasu who retired as Deputy Block Development Officer and died on 11.10.2017. According to her the 4th respondent namely, Mrs.Jothi was the second wife and her husband stealthily married her without her knowledge while subsisting his first marriage with the petitioner. It is the case of the petitioner that the marriage between her husband and Jothi is not valid in the eye of law since, there was no divorce legally obtained by her husband and thereby, the fourth respondent is not entitled to get monitory benefits including pensionary on retirement /death of her husband. The petitioner stated that a criminal case in C.C.No. 2024 of 1988 was filed against her husband for bigamy and she also filed a petition for maintenance in MC.No. 35 of 1988, wherein a compromise memo entered in to between her husband and herself, was filed and based on that, the said petition was ordered, granting Rs.300/- per month to the petitioner towards maintenance. Her husband died on 11.10.2017 leaving her as his only legal heir succeeding his estate. The petitioner made a representation dated 31.03.2018 to the respondents requesting to grant her monetary benefits including pension to her. However, the respondents have not acted upon the representation, which prompted the petitioner to come forward with the present writ petition.

3. A counter affidavit has been filed the 1st respondent wherein, it is stated that the 3rd respondent herein sent proposals dated 23.01.2004 for grant of retirement benefits by incorporating the name D.Jothi as beneficiary being the wife of the deceased employee and based on that she alone is entitled to the benefits and if at all the petitioner claims that she is the legally wedded wife of the deceased employee, she has to approach Departmental Officer and establish her status along with substantial proof, who in turn has to recommend her name as beneficiary and in such event only, the petitioner can claim the benefits.

4. The learned counsel for the petitioner would submit that originally the petitioner alone is the legally wedded wife of the deceased employee and while the first marriage was subsisting, the marriage between the deceased employee and 4th respondent is not valid one and the 4th respondent is not entitled to monetary benefits including the pension. He would point out that Rule 19 of the Tamil Nadu Government Servants Conduct Rules prohibits second marriage. However, the 4th respondent managed the authorities, fraudulently obtained legal heir certificate as if she and her two children are the legal

heirs of the deceased employee and the same was produced before the first respondent for disbursement of monetary benefits and there is every likelihood of disbursing the monetary benefits and family pension in favour of the 4th respondent and therefore, the learned counsel seeks a direction to the respondents to consider the representation dated 31.03.2018 and grant all retirement benefits including pension in favour of the petitioner.

5. Heard the learned counsel for the petitioner and learned Government Advocate for Respondents 2 and 3 and learned counsel for respondents 1 and 4 and perused materials placed on record.

6. The petitioner all along has been claiming that she is the legally wedded wife of the deceased employee, but though she was aware of the fact of the second marriage by her husband with one D.Jothi in the year 1988 itself, she has not taken any earnest efforts regarding her husband's declaration towards nominee being his wife, whether he had furnished her name in his service register. In fact, based on the details furnished by the government servant regarding nominee as D.Jothi as his wife, the 3rd respondent sent the proposals vide proceedings dated 23.01.2004 incorporating the name D.Jothi as beneficiary for grant of retirement benefits and for family pension. The 1st respondent office also admitted the joint pension payment order in favour of the government servant late P.Dhanarasu incorporating his wife name as D.Jothi as identified and certified by the 3rd respondent who is the competent authority to certify the beneficiary for the family pension as furnished by the government servant. Therefore, after lapse of considerable time the petitioner has come forward with the present writ petition which in the opinion of this Court cannot be entertained.

7. For the above said reasons the writ petition is dismissed. No costs.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

1. The Principle Accountant General
(A& E)
AG's Office Complex
361 Anna Salai, Rostrevor Garden,
Teynampet, Chennai.

2. The District Collector,
Perambalur.

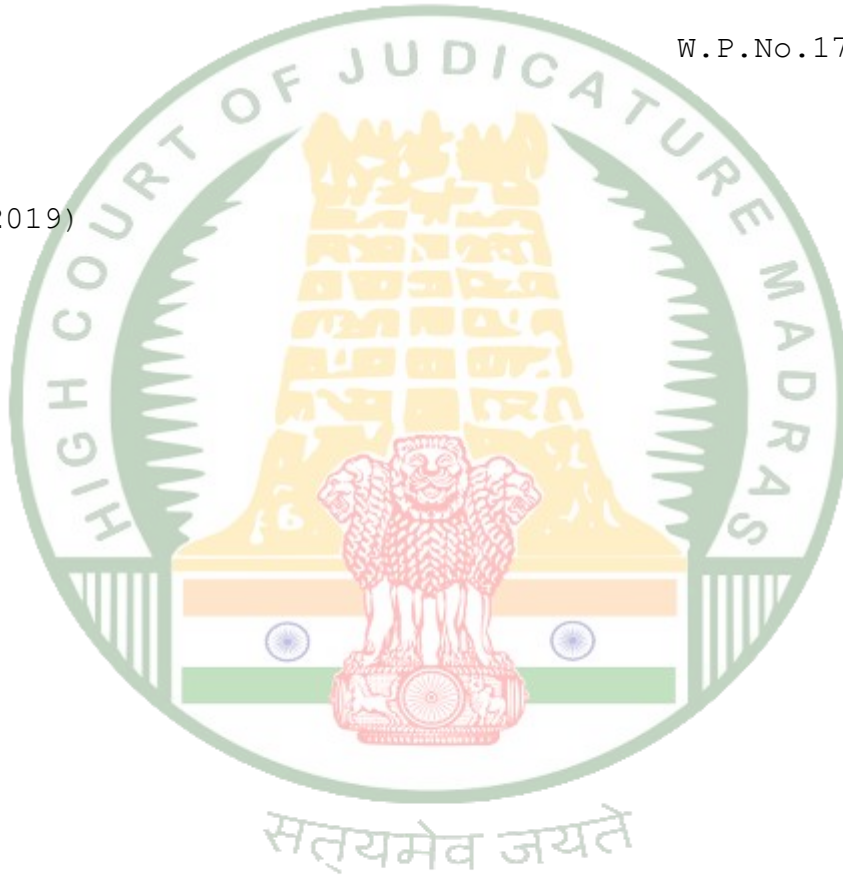
3. The Block Development Officer,
Veppur Panchayat Union Office,
Veppur, Kunnum Taluk,
Perambalur District.

+1 CC to M/s. Usha Ramman, Advocate sr 81873.

+1 CC to Mr.R.S. Selvam, Advocate sr 81794.

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RSV(CO)
SP(06/11/2019)



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