

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.26760 of 2019

Kalyani

... Petitioner

Vs.

1.The Commissioner
Salem Municipal Corporation
Salem.

2.The Assistant Commissioner
Ammapettai Ward-3
Salem Municipal Corporation
Salem - 636 003.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents herein to sanction the Family Pension of the deceased Thangavelu, S/o.Muthan, in the name of the petitioner, together with the arrears of Family Pension from 19.04.2017 within a time frame, as may be fixed by this Hon'ble Court.

For Petitioner : Ms.Elizabeth Ravi

For Respondents: Mr.S.Sathesh, Senior Counsel
for Salem Corporation.

सत्यमेव जयते
O R D E R

Mr.S,.Sathesh, learned Senior Counsel takes notice on behalf of the respondents viz., Salem Municipal Corporation. By consent, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner's husband Thangavelu was working as Sweeper in the 2nd respondent Corporation in General Sanitary Department, Division-34, Ammapet Ward-3, and he was retired from service on 30.09.2012. The petitioner is the second wife of the said Thangavelu. Through his first wife, he has two daughters, who were married and after the demise of his first wife, the said Thangavelu married the petitioner. Out of their wedlock,

they were blessed with two sons. However, the said Thangavelu has not entered the petitioner's name in the service register. Till his life time, the husband of the petitioner was receiving pension. He died on 18.04.2017. After his death, the petitioner applied for sanction of Family Pension in her favour to the 1st respondent, for which she received a reply notice from the 2nd respondent dated 16.03.2018 stating that during the audit, it was found that no person is eligible to receive the Family Pension and also stated that in the service register, the employees name was entered as Thangavelu, whereas the death certificate shows as Thangavel. Thereafter, the petitioner got the death certificate corrected and approached the 1st respondent for grant of family pension. Again the same was rejected stating that no one is eligible to receive family pension of deceased Thangavelu. Therefore, the petitioner has filed the present petition.

3. Heard the submissions made on either side and perused the records on file.

4. On perusal of records, it is seen that the 2nd respondent has issued notice to the petitioner on 16.03.2018, stating that in the Auditing, it was found that no one is eligible to receive the Family Pension and also that in the service register of said Thangavelu, his name has been mentioned as Thangavelu, but in his death certificate it has been mentioned as Thangavel. Thereafter again, in a notice dated 31.12.2018, the 2nd respondent has again stated that no one is eligible to receive the Family Pension of Thangavelu and asked to obtain orders from the Court for the purpose of grant of Family Pension. The petitioner without challenging the said notices, approaching this Court for a direction to the respondents is unsustainable.

5. Accordingly, this writ petition stands dismissed. However, the petitioner is at liberty to workout her remedy in the manner known to law. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

rm

To

1. The Commissioner
Salem Municipal Corporation
Salem.

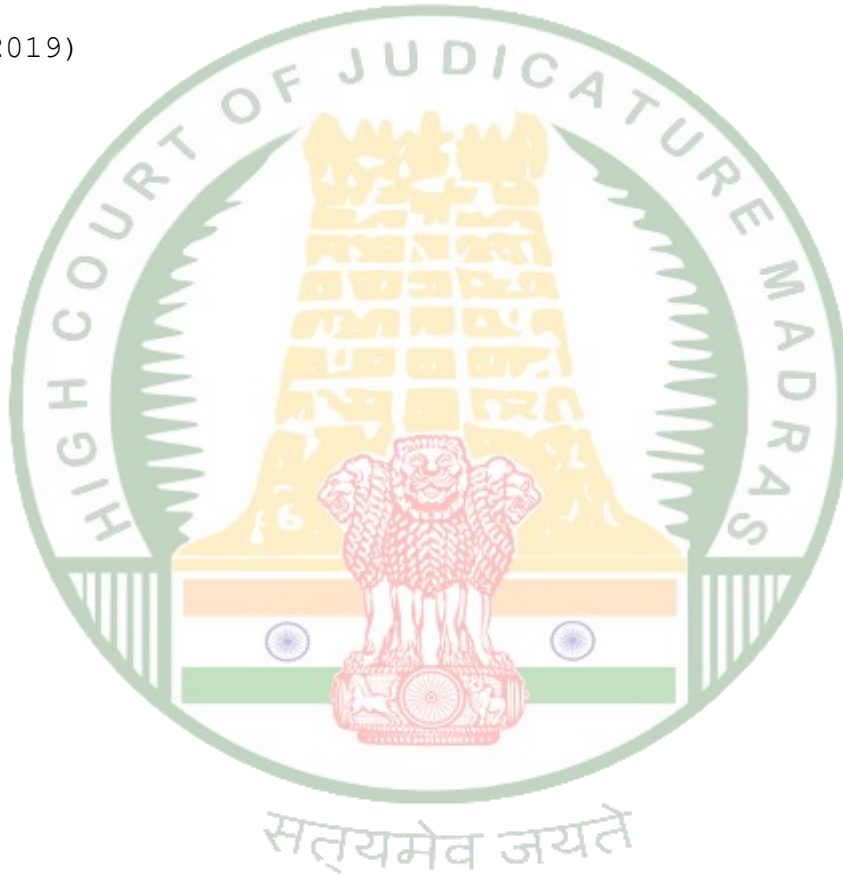
2.The Assistant Commissioner
Ammapettai Ward-3
Salem Municipal Corporation
Salem - 636 003.

+1cc to Mr.Elizabeth Ravi, Advocate, S.R.No. 77420

+1cc to Mr.S.Sathish, Advocate, S.R.No. 77350

W.P.No.26760 of 2019

SJ(CO)
GN(17/10/2019)



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