

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 03.01.2019

CORAM
THE HONOURABLE DR.JUSTICE S.VIMALA
W.P.No.32465 of 2018
and
W.M.P.No.37665 of 2018

K.Preetha

.. Petitioner

Vs

1.State Bank of India,
Centralised Pension Processing Centre (CPPC)
112/4, Kaliyamman Koil Street,
Virugambakkam,
Chennai - 600 092.

2.The Branch Manager,
State Bank of India,
Pension Disbursement Authority (PDA),
Gudalur Branch,
Nilgiris - 643 212.

3.The Principal Controller of Defence Accounts (PCDA)
Office of the Principal Controller
of Defence Accounts (Pensions),
Draupadighat,
Allahabad - 211014.

.. Respondents

Writ petition filed under article 226 of Constitution of India seeking issuance of Writ of Mandamus, to direct the respondents to release the complete the arrears of Family Pension form 26.07.2008 till October 2015 and Rs.1,52,373/- due for the period (October 2015 to October 2017) to the Petitioner and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.C.A.Diwakar

For R1 and R2 : Mr.K.Chandrasekar

O R D E R

The petitioner's husband K.Vijayaraghavan was a Soldier in the regiment of Artillery of the Indian Army. The petitioner's husband was a defence pensioner till he died on 25.07.2008 and at that point of time, he was residing at his brother's residence, namely, Mr.Srinivanan's residence.

2. The Said Srinivasan filed a petition in S.O.P.No.5 of 2009 seeking to probate a Will said to have been executed by the petitioner's husband allegedly in his favour. The said Srinivasan claimed that the petitioner's husband bequeathed all the properties, including the family pension to him.

3. The petitioner stated that following a Forensic Report, the Will sought to be probated is a forged document and also after the petitioner's detailed counter, the said Srinivasan absconded and the petition in S.O.P.No.5 of 2009 was dismissed on 17.12.2012.

4. The petitioner had in the meanwhile filed a complaint with the jurisdictional police for recovery of all the original pension papers from the said Srinivasan. The petitioner also had filed a direction petition in Crl.O.P.No.303 of 2014. This Court, by an order, dated 10.01.2014, issued directions to the respondent police to complete the investigation and to file a final report. The petitioner being unable to retrieve the original pension records of her husband, applied a copy of the same to the Artillery Record Office of the Indian Army, which also confirmed the petitioner's right to the family pension and by its letter dated 28.07.2015 pointed out that the Family Pension in favour of the petitioner had already been jointly notified vide proceedings dated 09.01.1999 and directed to release the Family Pension and arrears to the Petitioner without any delay. Thereafter, series of correspondence have been made, by which, pension has been sanctioned in favour of the petitioner.

5. According to the petitioner, a letter dated 27.09.2016 was sent by the General Manager of State Bank of India to the Assistant General Manager, State Bank of India, Chennai, whereby, a direction was issued to process the family pension for the period from 25.07.2008. Despite the said letter, the pension has not been given to the petitioner.

6. Despite the direction being issued by the General Manager of State Bank of India to the Assistant General Manager of State Bank of India, the order has not been complied with and that has made the petitioner to move this Court.

7. A perusal of the letter dated 27.09.2016 reveals that they are keeping sufficient balance in the family pensioners account to repay, if the amount to be paid is later on found to be excess.

8. The legal heir certificate issued by the Government of Tamil Nadu shows that the petitioner herein is the wife (aged 48 years) and there is one more legal heir viz., son aged 20 years. Despite the said document being filed and despite the order

being issued by the Superior Officer, the pension is not paid to the petitioner herein.

9. There is no justification for the respondent in not paying the pension amount despite the order dated 27.09.2016. The petitioner has no other option excepting to approach the court.

10. In the above circumstances, the respondents are directed to comply with the order dated 27.09.2016, failing which, suo motu contempt proceedings shall follow.

11. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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Office of the Principal Controller
of Defence Accounts (Pensions),
Draupadighat,
Allahabad - 211014.

+1cc to Mr.C.A.Diwakar, Advocate, S.R.No.831

+1cc to Mr.k.Chandrasekar, Advocate, S.R.No.1175

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and

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VGII(CO)

rrs 15/02/2019