



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.3343 of 2018

and

WMP(MD)No.3502 of 2018

A.Saraswathi

... Petitioner

vs.

1.The Principal Accountant General,
Office of the Accountant General (A & E),
No.361, Anna Salai,
Teynampet, Chennai - 600 018.

2.The Senior Accounts Officer/Pen 6,
Office of the Accountant General (A & E),
No.361, Anna Salai,
Teynampet, Chennai - 600 018.

3.The Assistant Director,
Animal Husbandry Department,
Palani, Dindigul District.

4.Loganayagi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in PEN6/II/2017-18/dated 01.01.2018 on the file of the 2nd respondent and quash the same as illegal and consequently for a direction forbearing the respondents from stopping the family pension sanctioned to the petitioner in view of the nomination made by the petitioner's husband vide Form A and Form E in his service Register dated 28.08.1992.

For Petitioner : Mr.T.Lajapathi Roy

For R1 : Mr.P.Gunasekaran

For R2 & R3 : Mr.C.M.Mari Chelliah Prabhu
Additional Government Pleader

For R4 : No appearance

ORDER

Challenging the impugned order of the second respondent dated 01.01.2018, stopping payment of family pension to the petitioner, this writ petition has been filed.

2. Heard the learned counsel appearing for the petitioner; the learned Additional Government Pleader for the respondents 2 and 3 and the learned counsel for the first respondent.

3. The case of the petitioner is that she is the legally wedded wife of the deceased Arumugam, who served in the third respondent department and after his demise, the petitioner was getting family pension. While so, the second respondent has passed the impugned order dated 01.01.2018, stopping the family pension with immediate effect. Challenging the same, this writ petition has been filed.

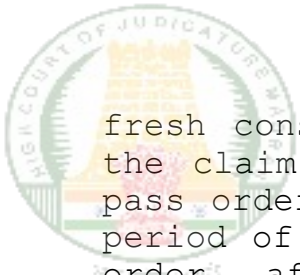
4. The learned counsel appearing for the petitioner submitted that without opportunity of being heard to the petitioner, the impugned order came to be passed, that too without verifying the records produced by the petitioner. Further, a legal heir certificate was issued in favour of the fourth respondent herein, based on the settlement effected before the Lok Adalat and the same is *ab initio void*. The second respondent without considering the said facts has erroneously passed the impugned order and therefore, the same is liable to be set aside.

5. The third respondent filed a counter affidavit, wherein it is stated that after verifying all the records produced by the fourth respondent herein, showing that she is the first wife of the deceased Arumugam, the impugned order came to be passed and therefore, the writ petition deserves to be dismissed.

6. This Court considered the rival submissions made on either side and perused the materials available on record.

7. As rightly contended by the learned counsel appearing for the petitioner, the second respondent, without affording an opportunity of hearing to the petitioner had passed the impugned order. Further, the petitioner has produced all the relevant documents to show that she is the wife of the deceased Arumugam. But the second respondent without considering the same, has passed the impugned order in question and therefore, the same is liable to be set aside and the matter is liable to be remitted to the file of the third respondent for fresh consideration.

8. In fine, this writ petition is allowed and the impugned order passed by the second respondent dated 01.01.2018 is set aside and the matter is remitted to the file of the third respondent for



fresh consideration. The third respondent is directed to consider the claim of the petitioner, based on the documents produced and pass orders afresh on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order, after affording an opportunity of hearing to both the parties. Till such time, the petitioner shall be paid with pension along with arrears forthwith, for which, necessary communication is directed to be sent to the authority concerned immediately. No costs. Consequently, WMP(MD)No.3502 of 2018 is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The Principal Accountant General,
Office of the Accountant General (A & E),
No.361, Anna Salai,
Teynampet, Chennai - 600 018.
- 2.The Senior Accounts Officer/Pen 6,
Office of the Accountant General (A & E),
No.361, Anna Salai,
Teynampet, Chennai - 600 018.
- 3.The Assistant Director,
Animal Husbandry Department,
Palani, Dindigul District.

+1CC TO MR.P.GUNASEKARAN, Advocate Sr. No.55455
+1CC TO MR.T.LAJAPATHI ROY, Advocate Sr. No.55244
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.54934

W.P(MD) No.3343 of 2018

TR (11.04.2019) 3P 7C