



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.19800 of 2019

M.Gandhiammal

... Petitioner

-Vs-

1.The Chief Internal Audit Officer,
Auditing Branch (Pensions), TANGEDCO,
144, Anna Salai, Chennai-2.

2.The Internal Audit Officer,
Auditing Branch (Pensions), TANGEDCO,
144, Anna Salai, Chennai-2.

3.The Superintending Engineer,
TANGEDCO, Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned order of the first respondent No.019341473/F8/F82/PPO.No.55595/2019, dated 01.08.2019 and quash the same and consequently, direct the first respondent to sanction the family pension and other eligible benefits to the petitioner.

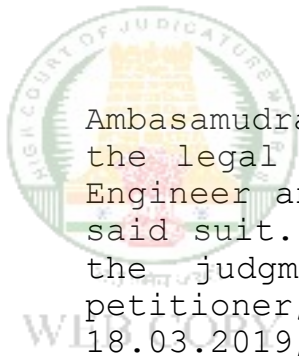
For Petitioner : Mr.P.P.Alwin Balan

For Respondents : Mr.G.Kasinathadurai

ORDER

This Writ Petition is filed, challenging the order of the first respondent dated 01.08.2019 and to direct the first respondent to sanction the family pension and other eligible benefits to the petitioner.

2.The petitioner has claimed family pension on the ground that her husband Late. P.Mookan was served as Foreman Grade-I in the third respondent and retired voluntarily on 03.08.2003. The petitioner's husband was receiving pension and died on 01.12.2005. The petitioner has applied to the third respondent in the Month of May, 2007, for family pension. The third respondent has directed the petitioner to obtain legal heirship certificate through Court to get the benefit of family pension. The petitioner has obtained legal heirship certificate dated 17.04.2007, wherein she was shown as one of the legal heirs of the said P.Mookan and filed O.S.No.81 of 2018, on the file of the Principal District Munsif Court,



Ambasamudram, for a declaration that the petitioner and others are the legal heirs of her husband namely, P.Mookan and the Assistant Engineer and the third respondent are the defendants 1 and 2 in the said suit. The learned Principal District Munsif, Ambasamudram, by the judgment dated 18.03.2019, has decreed the suit. The petitioner, enclosing the documents, including the judgment dated 18.03.2019, made in O.S.No.81 of 2018, along with legal heirship certificate of her elder sister, who was the first wife of her husband, sought family pension from the first respondent. On receipt of the said application, the first respondent has rejected the same on the ground that the deceased employee P.Mookan married the petitioner, while his first wife was alive. Hence, the petitioner has come out with the present Writ Petition, challenging the order of the first respondent dated 01.08.2019.

3.Heard the learned counsel appearing for the petitioner and the respondents and perused the materials available on record carefully.

4.From the materials on record, it is seen that the elder sister of the petitioner, who was the first wife of the employee P.Mookan, died on 05.03.1996. The petitioner was living with the employee and through the wedlock, three children were born. The petitioner, as per the instructions of the third respondent and Assistant Engineer, has filed O.S.No.81 of 2018, for declaration that she is one of the legal heirs of the deceased P.Mookan. The third respondent and the Assistant Engineer, who were the parties in the suit, did not object for grant of declaration that the petitioner and others are the legal heirs of the employee P.Mookan and also did not object to the legal heirship certificate, produced by the petitioner. Further, the respondents are not disputing the contentions of the petitioner that her elder sister, who was the first wife of her husband, died on 15.03.1996 itself.

5.It is pertinent to note that in the descriptive roll of the employee, which forms part of the pension paper, the second respondent has recorded that the petitioner is the wife of the employee P.Mookan. Having admitted so and having driven the petitioner to Court of law to obtain a decree of declaration that she is one of the legal heirs of the deceased employee and not disputing the legal heirship certificate issued by the concerned authority, it is not open to the respondents to deny family pension to the petitioner.

6.For the above reason, the impugned order passed by the first respondent dated 01.08.2019, is set aside. The first respondent is directed to sanction family pension and other eligible terminal benefits payable to the employee P.Mookan to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.



7. With the above direction, this Writ Petition stands allowed. No costs.

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// True Copy //

Sd/-

Assistant Registrar (CS-I)

Sub Assistant Registrar (CS)

Myr

TO

1. The Chief Internal Audit Officer,
Auditing Branch (Pensions), TANGEDCO,
144, Anna Salai, Chennai-2.

2. The Internal Audit Officer,
Auditing Branch (Pensions), TANGEDCO,
144, Anna Salai, Chennai-2.

3. The Superintending Engineer,
TANGEDCO, Tirunelveli.

+1CC TO MR. G. KASINATHADURAI, Advocate Sr. No. 92579

+1CC TO MR. P. P. ALWIN BALAN, Advocate Sr. No. 92945

W.P. (MD) No. 19800 of 2019
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SCR (CO)

TR (30.10.2019) 3P 6C