



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P[MD]No.2507 of 2014andM.P.[MD]No.1 of 2015

P.Saraswathy

... Petitioner

Vs.

- 1.The Comptroller,
Pension Section,
Tamil Nadu Agricultural University,
Coimbatore - 3.
- 2.The Registrar,
Tamil Nadu Agricultural University,
Coimbatore - 3.
- 3.The Director,
Centre for Plant Protection and Studies,
Tamil Nadu Agricultural University,
Coimbatore - 3.
- 4.The Deputy Director,
Local Fund Audit,
Centre for Plant Protection and Studies,
Tamil Nadu Agricultural University,
Coimbatore - 3.
- 5.M.Thangavel

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to consider the petitioner's representation dated 12.12.2013 requesting them to enter the petitioner name as nominee in the service register of the fifth respondent who is working as Accountant Officer in Center for Plant Protection and Studies Department, Tamil Nadu Agricultural University, Coimbatore - 3.

For Petitioner : Mr.PT.S.Narendra Vasan

For Respondents 1 to 4 : Mr.A.Thirumurthy

For Respondent No.5 : No appearance

**ORDER**

The relief sought for in the present Writ Petition is for a direction to direct the respondents 1 and 2 to consider the petitioner's representation dated 12.12.2013, requesting them to enter the petitioner name as nominee in the service register of the fifth respondent who is working as Accountant Officer in Center for Plant Protection and Studies Department, Tamil Nadu Agricultural University, Coimbatore - 3.

2.The writ petitioner states that she is the legally wedded wife of the fifth respondent and on account of certain family disputes, a petition was filed in H.M.O.P. No.154 of 2002, for dissolution of marriage. The HMOP was dismissed by III Additional Subordinate Judge, Madurai and subsequently the fifth respondent filed an appeal in HMCMA No.13 of 2009 on the file of the I Additional District Judge, Madurai. The said appeal was also dismissed and second appeal was filed by the fifth respondent in CMSA No.48 of 2011, before the Madurai Bench of Madras High Court and the second appeal filed in CMSA No.48 of 2011, is pending for adjudication.

3.This Court is of the considered opinion that so long as the decree of divorce is not granted by the competent Courts of law, the matrimonial relationship continues and for all purpose, the writ petitioner is to be treated as the legally wedded wife of the fifth respondent. Admittedly, HMOP was dismissed and the first appeal was also rejected. Now, the second appeal is pending before the High Court for adjudication. Under these circumstances, an employer is bound to register the name of the writ petitioner as nominee for the purpose of granting the family pension in the event of death of the fifth respondent and only if the decree of divorce is granted, thereafter, the position is to be altered based on the rules in force and based on the forms to be submitted by the writ petitioner.

4.However, the fact remains that the wedlock between the fifth respondent and the writ petitioner continues and therefore, the respondents have no other option but to enter the name of the writ petitioner as the nominee. As per the pension rules in force, an employee cannot nominate any other persons other than the spouse in the service register. Spouse of the employee alone is entitled to get family pension. This being the concept of the scheme of family pension, the same cannot be denied to the writ petitioner in the absence of any valid decree of divorce granted by the competent Courts of law.

5.Under these circumstances, the respondents 1 to 4 are directed to enter the name of the writ petitioner as nominee for

the purpose of family pension, subject to the outcome of the final order to be passed in CMSA No.48 of 2011, now pending before the Madurai Bench of Madras High Court.

6. With these directions, the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Comptroller,
Pension Section,
Tamil Nadu Agricultural University,
Coimbatore - 3.
2. The Registrar,
Tamil Nadu Agricultural University,
Coimbatore - 3.
3. The Director,
Centre for Plant Protection and Studies,
Tamil Nadu Agricultural University,
Coimbatore - 3.
4. The Deputy Director,
Local Fund Audit,
Centre for Plant Protection and Studies,
Tamil Nadu Agricultural University,
Coimbatore - 3.

+1 CC to Mr. PT. S. NARENDRAVASAN, Advocate SR-75539.

+1 CC to M/s. A. THIRUMURTHY, Advocate SR-75769.

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