



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P[MD]No.3484 of 2015

and

M.P. [MD]Nos.2 of 2015 & 2740 of 2016

R.Manikandan

... Petitioner

Vs.

1.The Accountant General (A & E).
(Pension),
Chennai.

2.The District Treasury Officer,
Madurai.

3.The Assistant Treasury Officer,
Peraiyur, Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the third respondent in Se.Mu.AA.Na.Ka.769/2014/A1 dated 09.01.2015, quash the same and consequently direct the respondents herein to pay family pension as already paid to the petitioner.

For Petitioner

: Mr.K.Appadurai

For Respondent No.1

: Mr.P.Gunasekaran
Standing Counsel

For Respondents 2&3

: Mr.S.Dhayalan
Government Advocate

O R D E R

The order impugned dated 09.01.2015, imposing recovery regarding the erroneous disbursement and receipt of family pension in favour of the writ petitioner is under challenge in the present writ petition.

2.The writ petitioner is working as Head Constable at Aundipatty Police Station. On 26.01.1996, the petitioner married one Jayalakshmi Devi daughter of Duraisamy. The wife of the writ



petitioner was employed as Secondary Grade Teacher at S.Kottaipatti Parasakthi Higher Secondary School, Peraiyur Taluk. The couple was blessed with two children. The wife of the writ petitioner died on 25.05.2008 in an accident. On account of the death of the wife of the writ petitioner, the family pension as per the pension rules was sanctioned in favour of the writ petitioner and he was receiving the family pension continuously.

3.The petitioner states that he received the family pension from 26.05.2008 onwards. Subsequently, the writ petitioner entered into a contract of second marriage with another woman one Smt.Subha and the petitioner married her on 06.11.2008. After the second marriage, the writ petitioner nominated his second wife as nominee in his service records in the Police Department. Even after the second marriage with Smt.Subha, the writ petitioner was continuously receiving the family pension without properly informing about the second marriage to the competent authorities as well as to the Treasury Department. The department had no knowledge about the second marriage and continuously paying the family pension to the writ petitioner.

4.The daughter of the writ petitioner born through the first wife made a complaint to the Treasury Department that the writ petitioner is illegally receiving family pension even after his second marriage with one Smt.Subha. The authorities competent conducted enquiry and found that the writ petitioner married one Smt.Subha as second wife and he nominated her name in all his service records in the Police Department. However, the writ petitioner suppressed these facts in the police department as well as with the Treasury Department. By suppressing the facts regarding the second marriage, the writ petitioner was continuously receiving the family pension which caused financial loss to the State exchequer.

5.The writ petitioner was illegally receiving the family pension for which he was not legally entitled. The authorities competent conducted an enquiry and the impugned order itself states that the writ petitioner had submitted a representation on 24.10.2014, stating that he had re-married Smt.Subha on 01.11.2013 and made a request to stop the family pension. In the said representation also, the writ petitioner had suppressed the fact that he married Smt.Subha as second wife during the year 2008 itself. False information was provided by the writ petitioner in his representation, in order to avoid recovery from the date of second marriage from the year 2008 onwards.

6.Thus, the writ petitioner had not only suppressed the fact regarding the second marriage but also the fact regarding the date of second marriage. The nomination was also filed by the writ petitioner registering his second wife as nominee in the police



department. Thus, the writ petitioner being a police officer, had acted unbecomingly of a uniformed personnel and suppressed the material facts and committed an act of misconduct warranting an action under the provisions of the Tamil Nadu Police Subordinate Services Conduct Rules.

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7. The order impugned enumerates that the competent authority conducted an enquiry and the daughter of the writ petitioner was also enquired into and the writ petitioner was also enquired by the Treasury officials. During the enquiry, the writ petitioner said that the second wife Smt. Subha came to his house on 01.11.2009 and thereby informed that the second marriage was solemnised on 01.11.2009. The daughter of the writ petitioner made a statement that her father married Smt. Subha on 06.11.2008. Thus, by providing false informations to the Government authorities and by suppressing the material facts, the writ petitioner illegally received the family pension from the Government and further provided contradictory dates and events for the purpose of escaping from the recovery proceedings.

8. This being the facts and circumstances of the case, the order of recovery is in accordance with the established principles of law. The writ petitioner had received the family pension illegally and he was not entitled to receive the family pension after the solemnisation of the second marriage with one Subha. Even the daughter of the writ petitioner herself deposed before the Treasury officials that the writ petitioner got married in the year 2008 with Smt. Subha. This being the factum, the order impugned is in consonance with the legal principles settled and there is no infirmity. Accordingly, the writ petition is devoid of merits and dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Accountant General (A & E).
(Pension),
Chennai.

2. The District Treasury Officer,
Madurai.



3.The Assistant Treasury Officer,
Peraiyur, Madurai District.

+1 CC to M/s.P. GUNA SEKARAN, Advocate (SR-82800[F] dated
21/08/2019)

+1 CC to Mr.K. APPADURAI, Advocate (SR-82950[F] dated 22/08/2019)

+1 CC to SPL GP (SR-83188[F] dated 22/08/2019)

W.P[MD]No.3484 of 2015

21.08.2019

MR

VB(18.10.2019) 4P 7C