

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 28.06.2019****CORAM:****THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM****W.P. (MD) No.10179 of 2013**

WEB COPY

Pannaiyammal

... Petitioner

vs.

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

2.The Assistant Elementary Educational Officer
Ottapidaram, Tuticorin District

3.Chandrasekar

4.Rajasekar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certioraraified mandamus calling for the records pertaining to the order of the 2nd respondent dated 20.05.2013 made in Na.Ka.No.467/A2/2013 and quash the same and direct the respondents herein to sanction and disburse family pension to the petitioner from January 2008.

For Petitioner : Mr.R.Vijaykumar

For Respondents: Mr.P.Gunasekaran for R1

Mrs.S.Srimathi

Special Government Pleader for R2

Mr.D.Anbarasu for R3

No appearance for R4

O R D E R

The order of rejection, dated 20.05.2013, passed by the second respondent, rejecting the claim of the writ petitioner for grant of family pension, is under challenge in the present writ petition.

2. The learned counsel appearing for the writ petitioner states that the writ petitioner is the legally wedded wife of Late.S.Kulanthai Alwar, who was employed as Office Assistant in the office of the second respondent and retired from service on 22.08.2005. The husband of the writ petitioner was receiving pension in P.P.O.No.178175/EDG till his lifetime. He passed away on 15.12.2007, leaving behind the writ petitioner as well as her two children, namely, Maniarasan, aged 43 years, and Manimala, aged 40 years.



3. The learned counsel for the writ petitioner further states that the husband of the writ petitioner entered the name of his concubine one Mrs.Thangammal in his Service Record. In view of the fact that the name of the writ petitioner was not nominated in the Service Record, the competent authority refused to entertain the pension proposal submitted by the writ petitioner for grant of family pension. Though the office of the respondents ascertained the fact, the writ petitioner was directed to obtain orders of the Court by getting a succession original petition. Accordingly, the writ petitioner filed a petition before the competent Court of law in S.O.P.No.4 of 2009 and the Principal District Munsif Court, Tuticorin, by order dated 24.02.2012, issued succession certificate to the writ petitioner. Along with the succession certificate, the writ petitioner submitted an application to the authorities competent for grant of family pension. But, the said application was also not considered and the same was rejected by the second respondent through the impugned order, by stating that all the sons and daughters of the deceased employee should sign the pension proposal.

4. This Court is of the considered opinion that after the demise of a Government employee, the spouse alone is entitled to get family pension. Only in the event of no spouse, the legal heirs, who all are minors, are entitled to get the family pension according to the hierarchy of the legal heirs. This being the provisions of the Tamil Nadu Pension Rules, 1978 (hereinafter, referred to as "the Rules"), when the writ petitioner has established that she is the legally wedded wife of the deceased employee, she is entitled to get the family pension and the consent letter from the other legal heirs is not necessary and the authorities competent cannot seek the consent or signatures of the other legal heirs for the purpose of grant of family pension to the writ petitioner. When the Pension Rules are unambiguous in this regard and the very family pension is to be granted only to the spouse at the first instance, this Court is of the opinion that the impugned order of rejection is not in accordance with the provisions of the Rules and the case of the writ petitioner is to be considered with reference to her claim for family pension.

5. Accordingly, the writ petition is allowed and the impugned order in proceedings Na.Ka.No.467/A2/2013, dated 20.05.2013, passed by the second respondent is quashed. The writ petitioner is directed to furnish all the particulars with regard to the grant of family pension to the competent authority, who in turn is directed to submit the pension proposal to the authority concerned and such a pension proposal is to be processed by the authority concerned and the first respondent / Accountant General has to take a decision and pass final orders on merits and in accordance with law, within a period of twelve weeks from the date



of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

// True Copy //

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Sub Assistant Registrar(CS)

krk

To:

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

2.The Assistant Elementary Educational Officer,
Ottapidaram, Tuticorin District.

+1cc to M/S.R.VIJAYAKUMAR, ADVOCATE, SR.NO.72524

+1cc to M/S.D.ANBARASU, ADVOCATE, SR.NO.72380

+1cc to M/S.P.GUNASEKARAN, ADVOCATE, SR.NO.72399

+1cc to M/S.SPECIAL GOVERNMENT PLEADER, SR.NO.72434

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