

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No.12127 of 2013

J. Vasantha

... Petitioner

Vs

- 1.The Accounts Officer,
Office of the Accountant General (A&E),
361, Lekha Pariksha Bhawan,
Annasalai, Teynampet, Chennai - 18.
- 2.The District Collector,
Tiruvannamalai District, Tiruvannamalai.
- 3.The Tahsildar,
Vandavasi Taluk, Vandavasi.
- 4.The Treasury Officer,
Tiruvannamalai, Tiruvannamalai District.
- 5.The Sub Treasury Officer,
Sub Treasury Officer,
Vandavasi, Tiruvannamalai District.

.... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the third respondent in his office ref: O.Mu.A5/2304/2013, dated 08.03.2013 and signed on 13.03.2013, quash the same and direct the respondents 4 and 5 herein to pay the family pension and other benefits to the petitioner with respect to her deceased husband C.Jeyapal who worked as Village Assistant in the office of the Village Administrative Officer, Mahadevimangalam Village, Vandavasi Taluk, Tiruvannamalai District within the time that may be fixed by this Court.

For Petitioner : Mr.P. Mani

For RR 2 to 5 : Mr.S. Thangavel,
Special Government Pleader

For R1 : Mrs.T.S. Selvarani

ORDER

This writ petition has been filed by the petitioner seeking to call for the records relating to the proceedings of the third respondent in his office ref: O.Mu.A5/2304/2013, dated 08.03.2013 and signed on 13.03.2013, quash the same and direct the respondents 4 and 5 herein to pay the family pension and other benefits to the petitioner with respect to her deceased husband C.Jeyapal, who worked as Village Assistant in the office of the Village Administrative Officer, Mahadevimangalam Village, Vandavasi Taluk, Tiruvannamalai District, within the time that may be fixed by this Court.

2. According to the petitioner, her husband late.C.Jayapal, worked as Village Assistant in the office of the Village Administrative Officer, Mahadevimangalam Village, Vandavasi Taluk, Thiruvannamalai District. Thereafter, her husband retired from service on attaining the age of superannuation on 31.05.2010. Thereafter, he died on 13.10.2012. After the demise of her husband, she submitted a representation on 11.02.2013 to the second respondent/District Collector, Thiruvannamalai, requesting her to pay the family pension to her and her son. Thereafter, the said representation was forwarded to the first respondent/Tahsildar by the second respondent for taking necessary action. Subsequently, the third respondent herein, in his office proceedings dated 12.02.2013 directed the petitioner to approach the Assistant Treasury Officer, Vandavasi, the fifth respondent herein for family pension and as directed by the third respondent, she has submitted an application dated 19.02.2013 before the fifth respondent on 01.03.2013 along with necessary documents with regard to the claim of the writ petitioner. While she is expecting favourable orders and pension from the fifth respondent herein, she has received the impugned proceedings of the third respondent, dated 08.03.2013, in which it has been stated that the petitioner is the 2nd wife of the deceased employee and as such, she is not entitled to the family pension and that the fifth respondent has also returned the said application submitted by the petitioner. The deceased husband of the petitioner C.Jeyapal, got married one Kumari as his first wife and after the demise of the first wife Kumari on

19.01.1978, her husband C.Jeyapal married the petitioner in the year 1980 and her marriage with her husband C.Jeyapal was conducted two years after the demise of the first wife. Moreover, the first respondent accepted the nomination submitted by her husband and the first respondent has also passed the order permitting the petitioner to receive the family pension after the demise of her husband. As such, the proceedings of the third respondent in rejecting the petitioner's request for family pension on the ground that she is the second wife of the deceased employee, is against the pension Rules. Hence, the petitioner has come forward with the present writ petition.

3. According to the writ petitioner, after the death of the first wife viz., Kumari on 19.01.1978, her husband married the petitioner in the year 1980. Therefore, the petitioner's marriage with her husband C.Jeyapal is a valid marriage, as her marriage with her husband cannot be rejected. Further, the learned counsel for the petitioner submitted that the third respondent has not provided any opportunity or placed the relevant records and hence, he filed the present writ petition before this Court.

4. The learned Government Pleader appearing for the respondents 2 to 5 would submit that the third respondent rejected the claim of the petitioner being the second wife of the deceased husband, as the second wife is not entitled to the family pension and therefore, her request was rejected.

5. Considered the submissions of the parties and perusal of the materials available on record.

6. On a perusal of the impugned order, it is seen that the writ petitioner sent a representation to the fifth respondent on 19.10.2013 for settling the family pension to her. Ultimately, the third respondent has passed the impugned order by rejecting the claim of the writ petitioner. On perusal of the impugned order passed by the third respondent, it is clear that no opportunity has been given to the writ petitioner. But the case of the writ petitioner is that the first wife died on 19.01.1978 and after the death of the first wife, the writ petitioner's marriage took place and she is the second wife. The third respondent has not considered the claim of the writ petitioner in proper perspective. Hence, this Court is of the considered view that the opportunity shall be granted to the writ petitioner to produce the relevant records before the third respondent and that the petitioner's marriage with deceased C.Jayapal is legal and valid. Therefore, there is violation of the principles of natural justice for not providing any opportunity before passing in the impugned order. Therefore,

the impugned order is liable to be quashed. Hence, the impugned order in O.Mu.A5/2304/2013, dated 08.03.2013 passed by the third respondent/Tahsildar suffers from legal infirmity, is hereby quashed.

7. In fine, the writ petition is allowed and the third respondent/Tahsildar, Vandavasi Taluk, is hereby directed to consider afresh the representation of the petitioner and afford opportunity to the writ petitioner. The petitioner shall also furnish the relevant records to the third respondent and thereafter, the third respondent shall pass orders, on merits and in accordance with law, as expeditiously as possible, within a period of twelve weeks (12) from the date of receipt of a copy of this order. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

msm

To

1. The Accounts Officer, Office of the Accountant General (A&E),
361, Lekha Pariksha Bhawan, Annasalai, Teynampet, Chennai -
18.
2. The District Collector, Tiruvannamalai District,
Tiruvannamalai.
3. The Tahsildar, Vandavasi Taluk, Vandavasi.
4. The Treasury Officer, Tiruvannamalai, Tiruvannamalai District.
5. The Sub Treasury Officer,
Sub Treasury Officer, Vandavasi, Tiruvannamalai District.

+1 cc to Government Pleader sr8145

+1 cc to Mr.P.Mani Advocate sr7505

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aa15/04/2020