

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2020

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.11941 of 2005

and

WMP.No.13049 of 2005

R.Sarumathy

... Petitioner

Versus

1.The Director,
Tamil Nadu Fire Service Department,
Egmore,
Chennai- 600 008.

2. The Divisional Fire Officer,
Ramanathapuram and
Sivagangai Division,
Ramanathapuram-623 501.

... Respondents

PRAYER: Writ petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings in Memo in R.C.No.19480/B4/2001 dated 23.02.2004 on the file of the first respondent herein and to quash the same and direct the respondents to pay the family pension to the petitioner on account of the death of her husband T.Selvakumar, with effect from 28.1.2001, with all arrears within a time frame fixed by this Court and continue to pay the same in accordance with law.

For Petitioner : Mr.P. Raja
for Mr.S.Subbiah

For Respondents : Mr.P.Chinnadurai (R1 & R2)
Additional Government Pleader

O R D E R

This petition has been filed against the order passed by the first respondent dated 23.02.2004 made in R.C.No.19480/B4/2001 dated 23.02.2004 and to quash the same and direct the respondents to pay the family pension to the petitioner on account of the death of her husband T.Selvakumar, with effect from 28.1.2001, with all arrears within a time frame fixed by this Court and continue to pay the same in accordance with law.

2.The case of the petitioner is that the husband of the petitioner was working as a fireman in Tamil Nadu Fire Service and he died on 28.01.2001. Though the petitioner obtained Legal Heir certificate from the Tahsildar, it shows that the husband of the petitioner died leaving behind his wife, mother, father as legal heirs. It is further stated that as per Section 8 of the Indian Succession Act, 1925 only the widow and the wife are the I class legal heirs and therefore they are only entitled to claim the terminal benefits. Therefore, the petitioner filed this Writ Petition before this Court in W.P.No.21524 of 2001, challenging the legal heir certificate dated 20.02.2001, in which an order of interim stay was granted by this Court on 08.11.2001 and based on the interim stay relating to the legal heir certificate, the respondents have not disbursed the family pension to the petitioner. When the petitioner made an application to the first respondent seeking family pension, the first respondent passed an order dated 23.02.2004, which is impugned in this Writ Petition.

3. Heard both sides. Perused the materials available on record.

4. As per the Section 8 of the Hindu Succession Act, 1925 the widow and the mother are the first class legal heirs and they are equally entitled to claim terminal benefits. As the legal heir certificate issued by the Tahsildar reflects all the legal heirs including his father, the same was challenged before this Court in W.P.No.21524 of 2001. However, it is represented that the said writ petition was dismissed on 10.01.2012. But, even after dismissal of the aforesaid Writ Petition the petitioner who is the widow of the deceased and who alone is entitled to get the family pension has not been paid till date.

5. Further it is pertinent to state that family for purposes of family pension means wife or husband/sons and unmarried daughters in the order of birth, and in case of unmarried pensioner, father or mother.

6. In view of the same, the respondent is directed to calculate the family pension payable to the petitioner and disburse the same to her on or before 21.12.2020.

7. Post this matter on 22.12.2020 for reporting compliance in this regard. As far as other terminal benefits are concerned, it is open to the petitioner to make representation to the respondents, within a period of two week from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to pass orders within a period of two weeks thereafter, in accordance with law on merits.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

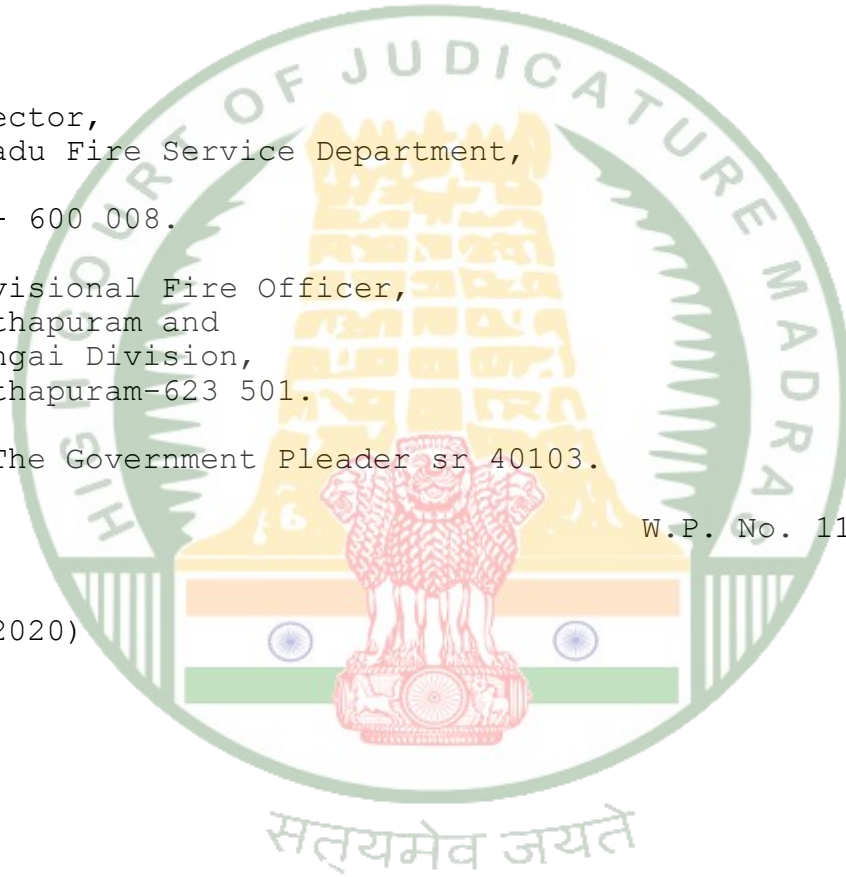
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+1 CC to The Government Pleader sr 40103.

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SSD(CO)
SP(10/12/2020)



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