

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :12.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 31077 OF 2013

and

M.P.No.1 of 2013

Kalaiaarasi

.. Petitioner

- Vs -

The Managing Director,  
Tamil Nadu State Transport Corporation Ltd,  
12, Ramakrishna Road,  
Salem 7.

.. Respondent

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, calling for the records with respect of the proceedings of the respondent in Ka.No.1211/o.u.1/th.a.Po.Ka/Se/2010 and quash the same consequently directing the respondent to sanction family pension to the petitioner on the death of the deceased Selvam.

For Petitioner : M/S.R.Nalliyappan

For Respondent : Mr.D.Gopal for Mr.D.Raghu

ORDER

This Writ petition has been filed by the petitioner, to call for the records with respect of the proceedings of the respondent in Ka.No.1211/o.u.1/th.a.Po.Ka/Se/2010 and quash the same consequently to direct the respondent to sanction family pension to the petitioner on the death of the deceased Selvam.

2.The case of the petitioner is that the petitioner's husband viz., Selvam (deceased), while working as driver in the respondent corporation, died in the yer 2008, leaving behind the petitioner and one Lakshmi Priya aged about 18 years as his legal heirs. Accordingly the Revenue Officials issued legal heir certificate. Apart from this, the petitioner has also obtained voter identity card, ration card and transfer certificate, which shows the petitioner's name and the deceased name as is appearing in the revenue records,. According to the petitioner, after the death of her husband, the petitioner herein, made several representations to the respondent claiming

family pension, however the same was rejected by the respondent by proceedings dated 21.12.2009, holding that the service record entry of the deceased Selvam, the name of the petitioner herein was not mentioned as wife and instead one Pushparani's name was found and further respondent reported that the service record of deceased reveals that the deceased contracted marriage with Pushparani in the year 1991 and the said Pushparani died on 14.10.1996. On the ground that the petitioner's name does not find place as in the service record as the nominee of the deceased, the petitioner's representation was rejected. Aggrieved over the same the petitioner has approached this court by filing this writ petition with the above said prayer.

3.Learned counsel appearing for the petitioner submitted that the marriage of the petitioner and the deceased Selvam was solemnized in the year 1990 and thereafter they were blessed with a female child. The school transfer certificate and other revenue records disclose that the petitioner's husband is C.Selvam who died subsequently. Though the petitioner has produced sufficient documents to establish the fact that she is the wife of the deceased Selvam, however without any valid reason, the respondent has rejected the petitioner's claim on the sole ground that the service register does not reflect the name of the petitioner, but reflects one Pushparani as the wife of the deceased Selvam. The documents, which have been issued by the revenue authorities cannot be held to be invalid documents to refute the claim of the petitioner.

4.Per contra, learned counsel appearing on behalf of the respondent submitted that as per the service records, the marriage of the deceased Selvam and the said Pushparani was performed in the year 1991, and the deceased Selvam has obtained marriage loan to the tune of Rs.30000/-. The service register further reveal that subsequent to the marriage, the said Pushparani passed away on 14.10.1996, which fact has also been recorded in the service register. However the petitioner's name and her daughter's name does not find place in the service record. Hence, without any entry in the service book, which has been maintained by the respondent Corporation, on production of revenue records, which have been obtained on the basis of self-declaration, the claim of the petitioner for pension cannot be acceded to. Hence he prays for dismissal of the petition.

5.This Court heard the rival submissions made by both side learned counsels and perused the materials available on record.

6.The facts in this case are in dispute and on perusal of the communication letter dated 21.12.2009, reveals that the deceased Selvam had contracted marriage with one Pusparani in the year 1991 and recorded her name as his wife in the service

record and there is also a further recording that the said Pushprani died on 14.10.1996. In the present case, there is no evidence to show that the petitioner is the wife the deceased Selvam. That being the case, the respondent, on the basis of the entries made in the service register, has respondent Corporation has rightly rejected the petitioner's claim of family pension in accordance with rule. Though the petitioner produced revenue records, school transfer certificate, etc., in favour of her to establish that she is the wife of the deceased Selvam, however, for fact remains that her name not being recorded in the service register, though she claims to be the first and only wife, the act of the respondent in not releasing family pension and rejecting the claim of the petitioner cannot be found fault with. The present petition at the behest of the petitioner under Article 226 of the Constitution is wholly not maintainable, as the remedy for the petitioner lies only before the competent civil forum.

7. Accordingly, for the reasons aforesaid, this writ petition stands dismissed. However the petitioner is set at liberty to workout her remedies in the manner known to law by moving the appropriate forum, if so advised. Consequently connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To  
The Managing Director,  
Tamil Nadu State Transport Corporation Ltd,  
12, Ramakrishna Road,  
Salem 7.

+1cc to Mr.D.Raghu, Advocate in SR no.26370

+1cc to The Government Pleader in SR no.26564

W.P. NO.31077 OF 2013

KK (CO)  
RV (04/09/2020)