

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.34296 of 2013

Therasammal (Deceased petitioner)

Jeelia Joththare Mary *

*P2 substituted as LR of Deceased P1

as per order dated 19.07.2017 in

WMP No.19070 of 2017

...Petitioner

Vs.

1. The Account General (A.&E.)

Tamil Nadu,
Chennai - 600 018.

2. The Superintendent of Police,

Vellore,
Vellore District.

3. The Treasury Officer,

Vellore,
Vellore
District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Respondents to consider the representation dated 16.3.2013 of the petitioner and pass appropriate orders authorizing revised Family Pension to the petitioner from 01.06.1996 onwards.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.Vijaya Shankar,

Std. Counsel for R1

Mr.S.Thangavel, Spl. GP for RR-2 & 3

ORDER

This writ petition has been filed for a direction to the respondents to consider the representation dated 16.03.2013 of the petitioner and pass appropriate orders authorizing revised Family Pension to the petitioner from 01.06.1996 onwards.

2. The original petitioner viz., Therasammal died during the pendency of the writ petition and thereafter, her daughter was substituted in her place vide order dated 19.07.2017 made in W.M.P. No.19070 of 2017.

3. It is the case of the original petitioner that her husband P.Lourdusamy, rendered service in the Police department as Constable from 20.03.1947 and while in service, he expired on 23.04.1958 and thereafter she was entitled to receive Family pension. Subsequent to G.O.Ms.No.174, dated 21.04.1998 and G.O. Ms. No.235, dated 01.06.2009, she became eligible to claim arrears of family pension for certain period. Hence, she submitted a representation dated 16.03.2013 to the 1st respondent, which was not considered, against which she filed the present writ petition. Pending writ petition, the original petitioner also died and her daughter was substituted as Legal Heir of the original petitioner as well as deceased P.Lourdusamy and she prays for consideration of the representation submitted by her mother for arrears of family pension due to the original petitioner.

4. Learned counsel for the petitioner submitted that, it would suffice if a direction is issued to the respondents to consider the representation of the original petitioner, within a time frame as stipulated by this Court.

5. Mr.Vijay Shankar, learned counsel for the 1st respondent and Mr.S.Thangavel, Special Government Pleader appearing for the respondents 2 and 3, while fairly conceded with the submissions of the learned counsel for the petitioner, however, submitted that the petitioner may be directed to send a copy of the representation dated 16.03.2013 to the respondents and the same would be considered on merits and in accordance with law within a reasonable time.

6. This court considered the submissions advanced by the learned counsel on either side and also perused the materials available on record.

7. A perusal of records reveal that at the time of filing of the present writ petition, the original petitioner, viz., the wife of the P.Lourdusamy, submitted Legal Heirship Certificate pertaining to the deceased P.Lourdusamy, wherein it is seen that in addition to her name, the names of her two daughters were also shown to be the legal heirs of the deceased Lourdusamy. However, pending the writ petition, the original petitioner, viz., the wife of the said Lourdusamy died and, therefore, the newly substituted petitioner, one of her daughter has filed the legal heir certificate relating to Therasammal, wife of the deceased P.Lourdusamy, for impleading herself as the petitioner

to contest the petition. However, a perusal of the said legal heir certificate reveals that the newly impleaded petitioner alone is shown to be the legal heir of the said Therasammal. However, in the legal heir certificate pertaining to husband of Therasammal, viz., P.Lourdusamy, in addition to Therasammal, two of her daughters, viz., the newly impleaded petitioner and one Maria Celina, were shown to be legal heirs. In such a circumstance, what became of the other daughter of Therasammal and Lourdusamy is not clear. The legal heir certificate pertaining to the original petitioner, viz., Therasammal does not reveal the details of the other daughter, viz., Maria Celina. It is to be noted from the affidavit filed by the newly substituted petitioner that there is no mention about the other daughter of Therasammal and Lourdusamy. Further, it is not the case of the newly impleaded petitioner that her sister, Maria Celina, who is shown to be one of the legal heir in the certificate pertaining to Lourdusamy had left her mortal coils as no certificate in this regard has also been placed before this Court. Therefore, in the absence of any clarity as to the detail of the other daughter of Therasammal and Lourdusamy, viz., Maria Celina, no positive direction for payment of arrears to the petitioner can be issued. However, in view of the fact that the prayer made is only to consider the representation of the original petitioner for payment of the arrears amount due, this Court is of the considered view that a direction with a string attached could very well be passed, as the relief sought for is limited to the consideration of the representation.

8. In such circumstances, this Court directs the newly impleaded petitioner to send a copy of the representation along with a copy of this order as also the documents pertaining to her sister, viz., Maria Celina, who is shown to be one of the legal heir of Lourdusamy to the respondents within a period of four weeks from the date of receipt of this order and on receipt of the said representation along with the above enclosures, the respondents are directed to consider the same and satisfy themselves as to the genuineness of the legal heir certificate pertaining to Therasammal and also the documents submitted relating to the status of the other legal heir of Lourdusamy, viz., Maria Celina, and pass appropriate orders on the said representation in accordance with law for payment of the arrears amount due to the original petitioner along with the statutory interest, if permissible, on the said amount for the delayed payment. No costs.

Sd/-

Assistant Registrar

//True Copy//

vsi2

Sub Assistant Registrar

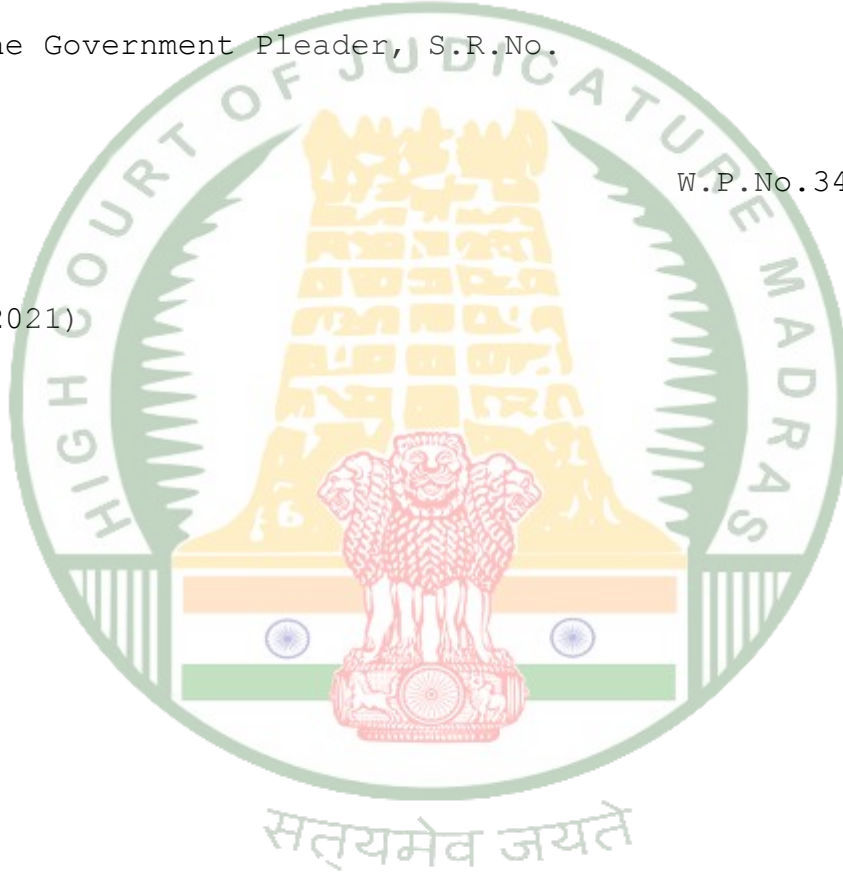
To:

1. The Account General (A.&E.)
Tamil Nadu,
Chennai - 600 018.
2. The Superintendent of Police,
Vellore,
Vellore District.
3. The Treasury Officer,
Vellore,
Vellore District.

+1cc to the Government Pleader, S.R.No.

W.P.No.34296 of 2013

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