

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2020

CORAM :

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.15713 of 2020

L.Aruna

... Petitioner

-Vs-

1. The Superintendent of Police,
O/o. the Superintendent of Police,
Nagapattinam District.

2. The Deputy Accountant General (Administration),
O/o. Principal Accountant General (A&E),
No.361, Anna Salai, Thenampet, Chennai.

3.Kumari

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent Nos.1 and 2 herein, to pay the pensionary benefits of the petitioner's husband (Late) Selvaraj, S/o.Natesan, who served as AR PC No.1167 under the 1st respondent police, to the petitioner.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondents : Mr.J.Pothiraj,

Special Government Pleader for R1

O R D E R

This writ petition has been filed to issue a Writ of Mandamus directing the respondent Nos.1 and 2 herein to pay the pensionary benefits of the petitioner's husband (Late) Selvaraj, S/o.Natesan, who served as AR PC No.1167 under the 1st respondent police, to the petitioner.

2. The case of the petitioner is that her husband was working as a Police Constable and took Voluntary Retirement from Service in the year 1989. Subsequently on 08.11.2013, her husband died. According to the petitioner, from the wedlock, they have four children (three sons and one daughter).

3. According to the averments made in the affidavit, there

was some matrimonial dispute between the petitioner and her husband and a petition was also filed before the Principal Sub Judge, Cuddalore in H.M.O.P.No.23 of 2008, for dissolution of the marriage. During the pendency of H.M.O.P.No.23 of 2008, a settlement was reached and the H.M.O.P was also dismissed on 16.02.2010.

4. After the death of her husband in 2013, the family pension was not paid to her and in this regard, the petitioner appears to have submitted a representation, for which, reply was sent by the 1st respondent on 23.09.2020, directing her to submit the documents and materials in support of her claim as a legal heir of the deceased employee. According to the communication dated 23.09.2020, there was a rival claimant one Kumari, who claims herself to be a legally wedded wife of the deceased employee. In the said circumstances, the petitioner was directed to submit all the necessary documents to prove her status.

5. While so, instead of proving her status as a legally wedded wife of the deceased Police Constable, she has rushed to this Court by way of the present writ petition seeking issue of writ of mandamus. In the absence of any materials in support of her claim, no direction could be issued by this Court to the authorities for disbursement of family pension to the petitioner.

6. This is more so, when there is rival claimant seeking family pension, in view of the dispute between the petitioner and the third respondent, it is imperative on the part of the petitioner to produce all the necessary documents in support of her claim and only on such production of documents, her claim could be considered by the authorities. This Court exercising its special jurisdiction under Article 226 of the Constitution of India, cannot declare the petitioner's status as a legal heir of the deceased employee. Until such consideration by the authority, no cause of action has arisen for this Court to entertain the present writ petition.

7. In the above said circumstances, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk/Jer

To

1.The Principal Sub Judge, Cuddalore.

2.The Superintendent of Police
O/o. the Superintendent of Police
Nagapattinam District.

3.The Deputy Accountant General
(Administration)
O/o. Principal Accountant General (A&E)
No.361, Anna Salai, Thenampet
Chennai.

+1 cc to The Government Pleader, Sr.No. 36087

W.P.No.15713 of 2020

BS (CO)
RMP (14/12/2020)



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