

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 07.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.22012 of 2014  
and  
M.P.No.1 of 2014

S.Rajeswari

... Petitioner

- Vs -

1.The Director of Pensions,  
259, Annasalai,  
Block 3, 2<sup>nd</sup> Floor,  
DMS Compound,  
Teynampettai, Chennai 600 006.

2.The Director,  
Local Fund Audit,  
Kuralagam 4<sup>th</sup> floor,  
Chennai 600 018.

3.The Commissioner,  
Mettupalayam Municipality.

... Respondents

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 from the 2<sup>nd</sup> respondent's letter No.Mu.Mu.No.4696/Na.O.Sa.3/2014 dated 08.05.2014, quash the same, consequently to give family pension to the petitioner with arrears of pension from the date of death of the petitioner's husband.

For Petitioner : M/S.P.Saravanan

For Respondents : Mr.S.Thangavel Spl.G.P.for RR1-2  
: Mr.A.Sairam, for R3

## ORDER

The writ petition has been filed by the petitioner, to call for the records from the 2<sup>nd</sup> respondent's letter No.Mu.Mu.No.4696/Na.O.Sa.3/2014 dated 08.05.2014, quash the same, consequently to give family pension to the petitioner with arrears of pension from the date of death of the petitioner's husband.

2.The case of the petitioner is that the petitioner's husband one Sengodan was working as sweeper in the 3<sup>rd</sup> respondent Municipality, who superannuated on 21.10.2003 and he was provided with pension vide PPO No.17498. Her husband breathed his last on 12.12.2009. After the demise of her husband, she obtained legal heir certificate on 26.03.2010 from the Tashildar, Mettupalayam Taluk and the legal heir certificate disclosed herself and her children namely S.Sathis Kumar and S.Yuva Raj as legal heirs of above deceased Sengodan. Therefore, the petitioner made a claim to the 3<sup>rd</sup> respondent for family pension on 6.5.2010 as the family was suffering from loss of livelihood. Though the 3<sup>rd</sup> respondent has forwarded her application with all necessary enclosures vide his proceedings dated 26.10.2010, however no action is forthcoming. In spite of repeated request made by her, once again the 3<sup>rd</sup> respondent forwarded her family pension proposals to the 2<sup>nd</sup> respondent vide his proceedings dated 12.08.2013, however no relief was granted. Therefore, she lodged a complaint with the 1<sup>st</sup> respondent for non-disbursal of family. In this regard the 1<sup>st</sup> respondent has forwarded a letter dated 11.07.2013 and the 3<sup>rd</sup> respondent has forwarded her pension proposal vide order dated 03.02.2014, however no family pension was granted. Since the petitioner was without any means for survival, she approached the Tamil Nadu State Legal Services Authority, Pension Lok Adalat, the Lok Adalat was directed the 3<sup>rd</sup> respondent to send a fresh proposal along with copy of the Legal Heir certificate, pursuant to which the 2<sup>nd</sup> respondent rejected her family pension application vide his letter dated 08.05.2014, stating that she has to obtain Succession Certificate from the District court, which is contrary to the Rule 16 of Tamil Nadu Treasury Rule and Rule 89 (c) of Subsidiary Rules. It is the grievance of the petitioner that she is finding it difficult to make both ends meet for even her daily life along with her children and unable to meet out her monthly family expenses. However, without appreciating the legal heir certificate submitted by her, relegating the petitioner to the District Court to obtain succession certificate is wholly unsustainable. Hence left with no other alternative the petitioner filed this writ petition.

3. Learned counsel appearing for the petitioner submitted that the petitioner along with her children are the class I legal heirs of the deceased Sengodan, which is evident from the legal heir certificate, which is a sufficient document for granting family pension. It is the further submission of the learned counsel for the petitioner that the 2<sup>nd</sup> respondent has merely rejected the claim of the petitioner asking for succession certificate, but has not stated any reason for requiring succession certificate. Further, there being no contest on the legal heirs of the deceased and it is not the case of the respondents that the petitioner is not the wife of the deceased, rejecting her claim for family pension cannot be sustained.

4. Learned special Government pleader appearing for the respondents 1 and 2, fairly conceded with the submission made by the learned counsel for the petitioner and submitted that legal heir certificate is sufficient to decide the family pension after the demise of the original pensioner unless there is a contra claim made with regard to the pension of the deceased.

5. This Court bestowed its attention on the submissions made by learned counsel on either side and also perused the materials available on record.

6. Admittedly the petitioner along with her children are the class I legal heirs of the deceased. It is not the claim of the respondents that there is a counter claim relating to the family pension payable to the deceased, which necessitates the petitioner to obtain a succession certificate. In the absence of any counter claim, it is incumbent upon the authority to satisfy himself as to the genuineness of the legal heir certificate and approve the family pension. Further, it is also not the claim of the 2<sup>nd</sup> respondent that there is a question as to the genuineness of the legal heir certificate produced by the petitioner. Once the legal heir certificate is accepted as genuine and there being no counter claim, the respondents are duty bound to approve the family pension to the petitioner. The act of the 2<sup>nd</sup> respondent in relegating the petitioner to the Civil Court to obtain a succession certificate is nothing but an abdication of duty on the part of the 2<sup>nd</sup> respondent. The 2<sup>nd</sup> respondent, on the basis of the legal heir certificate should have approved the proposal of family pension to the petitioner and should not have made the petitioner to run from pillar to post, including filing the present writ petition, more so, when the family has lost its breadwinner and is suffering for its livelihood.

7. For the reasons aforesaid, the impugned order passed by the 2<sup>nd</sup> respondent in letter No.Mu.Mu.No.4696/Na.O.Sa.3/2014 dated 08.05.2014, is set aside and the 2<sup>nd</sup> respondent is directed to process the family pension proposal forwarded by the 2<sup>nd</sup> respondent and settle the family pension to the petitioner along with arrears of family pension from the date of death of the deceased, if otherwise the proposal is in order, within a period of twelve weeks from the date of receipt of a copy of this order.

8. The writ petition is allowed with the aforesaid observation and direction. In the said circumstance, there shall be no order as to costs. Consequently connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

jrs

To

1.The Director of Pensions,  
259, Annasalai,  
Block 3, 2<sup>nd</sup> Floor,  
DMS Compound,  
Teynampettai, Chennai 600 006.

2.The Director,  
Local Fund Audit,  
Kuralagam 4<sup>th</sup> floor,  
Chennai 600 018.

3.The Commissioner,  
Mettupalayam Municipality.

+1 cc to the Government Pleader High Court Madras  
sr39585

+1 cc to M/s.P.Saravanan Advocate sr39450

ppa(co)  
aa19/02/2021

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