



WEB COPY

W.P(MD)No.13614 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.13614 of 2020

N.Saroja

... Petitioner

Vs.

1.The Accountant General,
(Accounts and Entitlements)
Tamil Nadu,
No.362, Anna Salai,
Teynampet,
Chennai - 600 018.

2.The Chief Judicial Magistrate,
Tirunelveli,
Tirunelveli District.

3.The District Treasurer,
Office of The District Treasury,
Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 1st respondent vide his proceedings in PEN2/T/PT.12783/2017-18/37511, dated 26.07.2018 and quash the same as illegal and consequently direct the 1st respondent herein to extend the Family Pension to the petitioner, which was received by her late husband namely K.Narayanasamy on account of death of her son namely N.Rajendran, from the date of the death of her husband, viz, 13.06.2013 together with arrears of family pension with interest with the time stipulated by this Court and for other reliefs.

For Petitioner : Mr.J.Lawrance

For Respondent

Nos.1 and 3 : Mr.Muthu Geethaiyan,
Special Government Pleader

For Respondent :Mr.K.Samidurai.

No.2

ORDER

[Order of the Court was made by **N.KIRUBAKARAN, J.**]

The petitioner, who is in receipt of the family pension due to the death of her husband, who was working in Railways Protection

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Force, seeks the family pension for the death of her son, who was working in the post of Lower Grade Assistant in the learned Chief Judicial Magistrate's Court, Tirunelveli. The claim of the petitioner was rejected by the first respondent and therefore, challenging the same, the petitioner is before this court.

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2.Heard Mr.J.Lawrance, learned Counsel for the petitioner, Mr.M.Muthu Geethaiyan, learned Special Government Pleader appearing for respondent Nos.1 and 3 and Mr.K.Samidurai, learned Counsel appearing for respondent No.2.

3.It is evident from the records that the petitioner's son was employed as Lower Grade Assistant in the office of the learned Chief Judicial Magistrate, Tirunelveli and he died on 26.02.1984 in harness. The petitioner's husband, who was working as a Head Constable in Railway Protection Force, Dindigul was also receiving pension from the Railway Department. After the death of the petitioner's husband on 13.06.2013, the petitioner was given family pension. The petitioner, being not satisfied with, sought for the family pension due to the death of her son and such a claim was rejected stating that the petitioner's annual income is Rs.1,18,320/- (Rupees One Lakh Eighteen Thousand and Three Twenty Only).

4.Though the learned Counsel for the petitioner would submit that no provision has been quoted by the first respondent, as to how the petitioner's claim is not sustainable, a perusal of Sub Rule 13-B of Rule 49 of Tamil Nadu Pension Rules, prohibits more than one family pension. Sub Rule 13-B of Rule 49 is extracted hereunder:

"(49) 13-B Family Pension admissible under this rule shall not be granted to a person who is already in receipt of family pension or is eligible therefore under any other pension rules:

Provided that a person, who is otherwise eligible for family pension under this rule, may opt to receive family pension under this rule, may opt to receive family pension under this rule, if he forgoes family pension admissible from any other rules]"

5.Even though the learned Counsel for the petitioner submitted that the petitioner is coming under Sub Rule 14 of the said Rules as her husband was employed in Railway Protection Force, Sub Rule 14 of the Rules does not include the Railway Protection Force and therefore, there is no exemption available so as to enable the petitioner to get two family pensions. Admittedly, the petitioner is getting family pension due to the death of her husband and in view of that, the impugned order is valid and there is no reason to interfere with the same.



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6.The petitioner is entitled for only one family pension, which has been confirmed by the impugned order and therefore, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (AS)

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/ /2020

Sub Assistant Registrar(CS)

dsk

To

- 1.The Accountant General,
(Accounts and Entitlements)
Tamil Nadu,
No.362, Anna Salai, Teynampet, Chennai - 600 018.
- 2.The Chief Judicial Magistrate,
Tirunelveli,
Tirunelveli District.
- 3.The District Treasurer,
Office of The District Treasury,
Dindigul District.

+1 CC to Mr.J. LAWRENCE, Advocate (SR-19216[F] dated 06/10/2020)

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VB (22.10.2020) 3P 5C