



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.14537 of 2015

M.Neela ... Petitioner

-Vs-

1.The Principal Accountant General,
Accountant General Office,
261, Annasalai, Chennai-18.

2.The District Elementary Educational Officer,
Tuticorin.

3.The Assistant Elementary Educational Officer,
Puthur Post, Vilathikulam Taluk,
Tuticorin District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to disburse 50% of the family pension due to the petitioner on account of death of her husband Muthusamy with 18% interest p.a., at once.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.P.Gunasekaran (for R1)

Mr.J.Gunaseelanmuthiah
Additional Government Pleader
(for R2 and R3)

ORDER

The relief sought for in the present writ petition is to direct the first respondent to disburse 50% of the family pension due to the petitioner on account of death of her husband Muthusamy with 18% interest p.a., at once.

2.The husband of the writ petitioner was employed as Secondary Grade Teacher at Kadalkudi Panchayat Union Elementary School and retired from service on 31.05.1992. The husband of the writ petitioner died on 15.03.2005 leaving behind his first wife Appammal and 19 others as his legal heirs. The first wife Appammal is the elder sister of the writ petitioner. Admittedly, the petitioner is the second wife of the deceased employee.



3.It is a settled principle of law that Government servant contracting a second marriage with any other women, is not only a misconduct, but the marriage itself is null and void. Thus, the second marriage of the deceased employee with the petitioner is not a valid marriage in the eye of law. When the marriage itself is not valid under the provisions of the Hindu Marriage Act, then, the question of grant of family pension would not arise at all. In view of the fact that the petitioner is not a legally wedded wife of the deceased employee, she is not entitled for family pension under the provisions of the Tamil Nadu Pension Rules 1978. However, it is brought to the notice of this Court that 50% of the pension alone is paid to the first wife Smt.Appammal, she is none other than the elder sister of the petitioner. The said action of the respondents is also erroneous. As per the Pension Rules, when the first wife is very much alive, the entire family pension is to be settled in favour of the first wife.

4.The learned counsel for the respondents also admitted the fact that the 50% of family pension alone is paid to the first wife of the deceased employee. Thus, the respondents are directed to settle 100% of the family pension in favour of the first wife and the second wife of the petitioner is not entitled for any relief. In view of the said position, the respondents are directed to settle 100% of the family pension in favour of the first wife immediately.

5.With these directions, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To

1.The Principal Accountant General,
Accountant General Office,
261, Annasalai,
Chennai-18.

2.The District Elementary Educational Officer,
Tuticorin.



3.The Assistant Elementary Educational Officer,
Puthur Post, Vilathikulam Taluk,
Tuticorin District.

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+1 CC to M/s.GP (SR-24272[F] dated 07/12/2020)

W.P. (MD) .No.14537 of 2015
04.12.2020

sj (CO)
TR(18.12.2020) 3P 5C