



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.1064 of 2015

S.Krishnaveni

... Petitioner

Vs.

- 1.The Principal Accountant General [A & E],
Teynampet, Chennai - 600 018.
- 2.The Assistant Engineer,
Highways [PWD] Department,
Gummidipoondi Division, Thiruvallur District.
- 3.The Sub Treasury Officer,
Gummidipoondi Sub Treasury,
Tiruvallur District.

4.Mrs.Rani

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to issue family pension to the petitioner on the death of the petitioner's husband namely Late P.Subramanian, Pension Pay Order No.A.870414/H.W. in book No.4981168603.

For Petitioner : Mr.R.Sreedharan

For Respondents : Ms.T.S.Selvarani - R1

Mr.A.N.Thambidurai
Special Government Pleader - R2 & R3

ORDER

This writ petition has been filed to direct the respondents to issue family pension to the petitioner on the death of her husband namely P.Subramanian.

2.According to the petitioner, her husband retired from the office of the first respondent on 30.06.1995 and he died on 04.12.2014 leaving behind the petitioner and her children as his legal heirs. The petitioner is the first wife of the deceased



Government servant and they got married in the year 1960. Subsequently, in the year 1965, her husband had illegally married one Rani. After the death of the husband of the petitioner, the said Rani approached the Revenue authorities and obtained legal heir certificate and on the basis of the same, applied for family pension. When the petitioner approached the second respondent seeking family pension, which was rejected on the ground that her husband nominated the said Rani for receiving family pension. Feeling aggrieved, stating that the petitioner, being the legally wedded wife of the deceased Government servant, is entitled to get family pension as per Rule 49(7)(a)(1) of the Tamil Nadu Pension Rules, the present writ petition came to be filed for the aforesaid relief.

3. Upon notice, the respondents filed a detailed counter affidavit, wherein, in paragraphs 4 and 5, it is inter alia stated as follows:

"4. It is submitted that the petitioner had averred in para 3 of the affidavit filed in support of WP filed before this Court that she was married to the deceased Government Servant in the year 1960, while Smt. Rani was married to the deceased Government Servant in the year 1955. As per her avement, Smt. Rani is the first wife of the deceased Government Servant as the date of marriage of Smt. Rani (i.e., in the year 1955) with the deceased Government servant, is prior to that of the date of marriage of the petitioner (i.e., in the year 1960).

5. Hence, it is submitted that her claim is not valid in the eye of law and therefore, she cannot be termed as a widow in the strict sense as per Rule 49 (7)(a)(i) of the Pension Rules and thus would not be entitled for the family pension as a legally wedded life."

Stating so, the respondents prayed for dismissal of this writ petition.

4. Heard the learned counsel for the petitioner and the learned counsel for the first respondent as well as the respondents 2 and 3 and also perused the materials placed before this Court.

5. It appears from the records that the respondents sanctioned family pension to the fourth respondent / Rani, as her name was nominated by the deceased Government servant while he was in service. Though the petitioner averred that she is the legally wedded wife and the marriage between the deceased and the fourth respondent was done, after five years from her marriage, the same was not substantiated by any concrete material. In the absence of one such evidence, the claim of the



petitioner cannot be allowed to be sustained.

6.It is settled law that the second wife who got married to a Government servant during the subsistence of his marriage with first wife, is not entitled to family pension [Refer: Rameshwari Devi v. State of Bihar and others, (2000) 2 SCC 431]. Applying the same to the facts of the present case, this Court is of the opinion that the petitioner is not entitled to get any relief in this writ petition.

7.In such view of the matter, the writ petition deserves to be dismissed and is accordingly, dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vrc

To

- 1.The Principal Accountant General [A & E],
Teynampet, Chennai - 600 018.
- 2.The Assistant Engineer,
Highways [PWD] Department,
Gummidipoondi Division, Thiruvallur District.
- 3.The Sub Treasury Officer,
Gummidipoondi Sub Treasury,
Tiruvallur District.

+1 cc to the Government Pleader, S.R.No.8255

W.P.No.1064 of 2015

BP(CO)
RVM(23/07/2021)