

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.03.2021
CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.1607 of 2012

S.Gnanaprakasi

... Petitioner

-Vs-

1.The Sub-Treasury Officer, Gingee.

2.The District Treasury Officer,
Villupuram.

3.The Accountant General
Office of the Accountant General
Teynampet, Chennai 600 018.

4.The District Educational Officer
Villupuram District.

5.The Headmaster
Government High School
(Adi Dravida Welfare), Meenambur
Kavarai, Gingee Taluk
Villupuram District.

6. V.Annakili ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents directing the respondents to cancel the family pension of the deceased D. Nagamuthu granted to the 6th respondent.

For Petitioners : Mrs.Sasikala Ramadoss

For Respondents : Mr.K.Magesh

Special Government Pleader
for RR 1&2

Mr.T.S.Selvarani - for R3

Mr.S.Suresh Kumar,

Government Advocate - for RR 4 & 5

Mr.A.E.Ravichandran - for R6

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to cancel the family pension of the deceased D. Nagamuthu granted to the 6th respondent.

2. That the husband of the petitioner, as claimed by the petitioner, was working in the respondent Education Department and according to the petitioner, she is the legally wedded wife. However, without the knowledge of the petitioner, the petitioner's husband married the sixth respondent and after retirement, the petitioner's husband expired on 26.10.2011. Thereafter, according to the petitioner, since the deceased employee viz., the husband of the petitioner had nominated the sixth respondent as legal heir to receive the family pension, the family pension has been given to the sixth respondent and now to get the same or at least to share the same, the petitioner has given a representation to the respondent dated 19.02.2011, and since the same has not been considered by the respondent, the petitioner has approached this Court with the aforesaid prayer.

3. Heard the learned counsel for the petitioner, who reiterated the aforesaid facts and seeks the indulgence of this Court.

4. However, the learned counsel appearing for the sixth respondent would submit that, both the petitioner as well as the sixth respondent are the legally wedded wives of the deceased and in fact both of them are residing under same roof, not only at the time of the lifetime of the deceased employee, but also even till date, they are residing under same roof and this is evident from the address of both the writ petitioner as well as the sixth respondent being given in the writ petition filed before this Court.

5. He would also submit that, during the lifetime of the deceased employee, both the petitioner and the sixth respondent agreed upon certain things and as per the agreement only, certain properties were given to the children born out of the wedlock between the petitioner and the deceased employee. Insofar as the children born out of the wedlock between the sixth respondent and the deceased employee, no such properties were given and therefore, in order to compensate the same or otherwise, with the consent of the petitioner only, the deceased employee had nominated the sixth respondent as his nominee to receive the pensionable benefits i.e., family pension and accordingly the sixth respondent has been receiving the family pension.

6. Learned counsel for the sixth respondent would also submit that, if at all there is any issue as raised by the petitioner that has to be sorted out, certainly the sixth respondent is ready and willing to go for a negotiation.

7. However, the learned counsel for the petitioner would submit that, the petitioner is not ready to have any such negotiation and as per law, whatever she is entitled to get as family pension of the deceased, that can be decided by the official respondents and accordingly whatever benefit that can be extended to the petitioner, can be extended to her and in this regard, the representation of the petitioner dated 19.02.2011 can be directed to be considered by the official respondents within a time frame that may be stipulated by this Court.

8. Heard Mr.K.Magesh, learned Special Government Pleader appearing for the official respondents, who submitted that, the claim of the petitioner and counter claim of the sixth respondent in respect of receiving the retirement benefits such as family pension of the deceased employee, would be considered as per law and in this regard the representation submitted by the petitioner dated 19.02.2011 will certainly be considered after giving due opportunities to the petitioner as well as the sixth respondent, and the same will be decided within a time frame to be stipulated by this Court.

9. Having considered the said submissions made by the learned counsel for the parties and taking into account, the factual matrix as submitted by the respective parties before this Court, this Court is inclined to dispose of this writ petition with the following order.

10. That there shall be a direction to the first and second respondents to consider the representation of the petitioner dated 19.02.2011 and decide the same on merits and in accordance with law and before deciding the said representation on merits, notice shall be given to both the petitioner as well as the sixth respondent separately fixing the date of hearing and on that date, after hearing both the petitioner as well as the sixth respondent, by considering the input if any to be supplied in this regard, or any compromise memo to be filed in this regard, after having negotiated settlement between the parties, shall pass final orders thereon within a period of three months from the date of receipt of a copy of this order.

11. It is made clear that, despite the notice to be given by the official respondents as indicated above, if any one of the parties ie., the petitioner or the sixth respondent do not appear before the official respondents for such an enquiry to be fixed and communicated, it is open to the official respondents to decide the representation on merits and in accordance with law, even without hearing the petitioner as well as the sixth respondent.

12. At any rate, the final orders shall be passed within an outer limit of three months as indicated above. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS.III)

/True Copy/

Sub Assistant Registrar

To

1.The Sub-Treasury Officer, Gingee.

2.The District Treasury Officer,
Villupuram.

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Kavarai, Gingee Taluk
Villupuram District.

+1cc to M/s.Sasikala Ramadoss, Advocate SR.NO..17785

+1cc to Mr.A.E.Ravichandran, Advocate SR.NO..17906

+1cc to The Government Pleader SR.NO..18448 and 18212

AKM/01.04.21/4P-9C/

सत्यमेव जयते

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