

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 21.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.36136 of 2007

Tmt G.Maniammal

...Petitioner

Vs

1. The Chairman,
Tamil Nadu Electricity Board (TNEB),
Chennai - 01.
2. The Additional Divisional Engineer (ADE),
Tiruvannamalai Electrical Distribution
Circle,
Tiruvannamalai District.
3. The Chief Secretary,
The Government of Tamil Nadu,
Fort St. George,
Chennai - 01.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the 1st respondent herein, in Letter No.Lr.No.42666/P.No.482/BOAB/F-402/2005 dated 28.10.2005 and quash the same.

For Petitioner : Mr.M.Arumugam

For Respondents: Mr.Fekkir Mohideen
for R1 & R3

Mr.M.Vaidhayanathan
for R2

WEB COPY

O R D E R

By consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioner herein claims the pensionary benefits of late Shri.Govindarajan Pillai. Admittedly, the petitioner herein

is the second wife of late Shri.Govindarajan Pillai, who was employed as a Lineman in the respondent-Electricity Board.

3. In the affidavit filed in support of the writ petition, the petitioner had categorically stated that she had married Shri.Govindarajan Pillai during the lifetime of the first wife. The ground on which the petitioner seeks the pensionary benefits of late Shri.Govindarajan Pillai is that her marriage with the late employee took place when the first wife, namely Smt.Baby Ammal, was medically unfit and suffering from Leprosy. It is also her case that she has obtained a Succession Certificate from an appropriate Court of law in her favour and therefore, she is entitled for pensionary benefits.

4. It is a settled proposition that a marriage between two persons, when the earlier spouse is alive, is invalid. The Hindu Marriage Act specifically prohibits such a marriage during the lifetime of the earlier spouse. As such, the petitioner's marriage with late Shri.Govindarajan Pillai is deemed to be an illegal marriage.

5. The regulations governing the respondent board does not entitle the second wife to claim pensionary benefits of the late employee. A mere ground of alleged Succession Certificate will not legalize a second marriage. When the regulations of the board does not entitle the second wife in claiming pensionary benefits, the Succession Certificate in favour of the second wife will not help her in any way, so as to claim pension.

6. A Division Bench of this Court in the case of R.Rajathi Vs. The Superintendent Engineer, TANGEDCO and another passed in W.A.No.977 of 2017 had elaborately discussed these aspects and had held that the second marriage will not entitle the person to claim the benefits when the personal law does not provide for such a second marriage. The relevant portion of the order reads as thus:

"42. We have discussed the basis on which the various judgments, of course conflicting views, have been rendered. Insofar as the view that the second wife of the Government Servant, who died prior to 02.06.1992 as held in Tamilselvi's case, referred to supra, and the view that a widow of an invalid second marriage that had taken place prior to 14.10.1991, as held in Pushpavalli's case, have given our reasons, as to why, we are unable to subscribe to the said conclusions of the learned Single Judge. We are, therefore, of the opinion that in order to enable a second wife to claim

family pension the marriage should have been valid under the Personal Law applicable to the parties, to hold otherwise would be in violation of the law of the land, viz. the Personal Law of the parties as well as the Criminal Law, which prohibits bigamous marriage.

43. We are, therefore, constrained to conclude that the judgments which conclude that a second wife would be entitled to family pension, irrespective of her marriage being void, under the provisions of their relevant Personal Law's applicable to the parties do not reflect the correct position of law and therefore will stand overruled. The applicability of Sub Rule 7(a)(i) is confined only to cases where the second marriage is valid under the Personal Law applicable to the parties, only in such cases, widows of such marriages would be entitled to family pension."

7. The aforesaid extract is self explanatory. As such, the petitioner, who had admitted that she is the second wife, will not be entitled for pensionary benefits.

8. Hence, I do not find any merits in the writ petition. Accordingly, the same stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Chairman,
Tamil Nadu Electricity Board (TNEB),
Chennai, Chennai - 01.
2. The Additional Divisional Engineer (ADE),
Tiruvannamalai Electrical Distribution
Circle,
Tiruvannamalai District.

3. The Chief Secretary,
The Government of Tamil Nadu,
Fort St. George,
Chennai - 01.

W.P.No.36136 of 2007

RSI (CO)
CB(01/07/2021)



WEB COPY