

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 20628 of 2011

A.Angammal

... Petitioner

-vs-

1. The Principal Accountant General,
(Accounts and Entitlements)
Teynampet, Chennai - 18.

2. The Headmaster,
Government Higher Secondary School,
Salem District,
Yethapur.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the respondents herein to disburse the family pension to the petitioner with effect from the date of the death of the petitioner's husband i.e., 09.10.2005 with all arrears and interest on the delayed payments.

For Petitioner	:	Mr.M.Ravi
For Respondents	:	Ms.T.Selvarani
		Standing counsel for R1
		Mr.S.Sureshkumar
		Government Advocate for R2

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents herein to disburse the family pension to the petitioner with effect from the date of the death of the petitioner's husband i.e., 09.10.2005 with all arrears and interest on the delayed payments.

2. The petitioner's husband one Arumugam, worked as PG Tamil Pandit (TP) in Government Higher Secondary School, Salem District. While he was working so, he died and thereafter, family pension was sought for by the petitioner. However, the same since seems to have been turned out by the respondents on the ground that, the petitioner married the deceased employee i.e., Arumugam, when the first wife was alive and while the first marriage solemnized with the first wife was still subsisting.

3. However, in this context, it is the case of the petitioner that, no doubt, her husband got married with one Palaniammal, who was the first wife. However she died on 20.11.1987 and only after her death, the deceased Arumugam married the petitioner on 08.12.1988. Therefore, in this context, the correct date of marriage has to be taken into account by considering the same in proper perspective. Since the application of the petitioner seeking for family pension turned out, representation dated 26.08.2009 was given to the first respondent through the second respondent and however, the same was not considered. Therefore, the said request may be directed to be considered on merits within a time frame, for which, whatever further input required by the respondents would also be supplied by the petitioner.

4. Heard Ms.T.Selvarani, learned Standing counsel appearing for the first respondent who would submit that, so far as the claim of the petitioner is concerned, if she is a second wife, that she got married with the deceased employee when the first wife was alive, certainly, she was not eligible to get such family pension. In this regard she ascertained that, the marriage was solemnized only after the death of the first wife and that aspect has to be considered by the employer, when the employer decides the issue and accordingly, if the representation is given for the family pension, the same shall be forwarded to the first respondent and it would be considered and accordingly, decision would be taken by the first respondent.

5. Mr.S.Sureshkumar, learned Government Advocate appearing for the second respondent would submit that, only the Accountant General and Headmaster concerned, where the petitioner's husband lastly worked and retired, were party respondents in this regard. However, if the copy of the representation submitted by the petitioner on 26.08.2009 is once again given through the proper channel i.e., Headmaster concerned through the CEO of the District, the same would be considered and accordingly, decision would be taken as to whether, the petitioner would be entitled to get the family pension and accordingly, the same would be forwarded to the first respondent.

6. I have considered the submissions made by both parties and have perused the materials placed before this Court.

7. Whatever be the controversy, as to whether, the petitioner got second marriage with the deceased employee, during first wife was alive or not cannot be gone into, at this juncture, as these factors were to be unearthed by the employer. Therefore, the representation given by the petitioner dated 26.08.2009 can be considered and decided by the respondents and once they decided, the petitioner is entitled to get the family

pension benefit that can be sanctioned and if she is not entitled to get the same, the decision can also be taken and communicated to the petitioner.

8. In that view of the matter, this Court is inclined to dispose of the Writ Petition with the following orders:

"That the petitioner shall send a copy of the representation dated 26.08.2009 along with the copy of this order to the Chief Educational Officer, Salem District through the Headmaster concerned i.e., second respondent and on receipt of the copy of this order along with the copy of the said representation of the petitioner by the Chief Educational Officer through the second respondent, the same shall be considered on merits and in accordance with law and once the CEO concerned decided the same in favour of the petitioner, necessary family pension proposal shall be forwarded to the first respondent thereafter within a period of two months and on receipt of the same, the first respondent shall take a decision and pass necessary order thereon sanctioning family pension to the petitioner."

9. With the aforesaid direction, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Accountant General,
(Accounts and Entitlements)
Teynampet, Chennai - 18.
2. The Headmaster,
Government Higher Secondary School,
Salem District, Yethapur.

+1cc to The Government Pleader SR.NO..8476

AKM/18.03.21/ 3P-4C/

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