

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 09.03.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.2837 of 2012

K.Shantha

... Petitioner

Vs.

1.The Assistant General Manager,
HO: HRM Department,
Pension Cell, Indian Bank,
No.254-260, Avvai Shanmugam Salai,
Royapettah, Chennai - 14.

2.The Branch Manager,
Indian Bank,
Vaniyambadi Branch,
Vellore District.

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order from the file of the 1st respondent which is communicated in letter dated 14.01.2011 (14.01.2012) on the file of the second respondent and quash the same and consequently direct the respondents to grant of family pension to the petitioner in respect of her husband Late G.Krishnan SR.No.61300 ex-sub staff from the date of his death i.e., 17.06.2003.

For Petitioner : Mr.K.Balaji

For Respondents : M/s.Rita Chandrasekar
For M/s.Aiyar & Dolia

ORDER

The prayer sought for herein is for a writ of certiorarified mandamus to call for the records relating to the impugned order from the file of the first respondent, which is communicated in letter dated 14.01.2011 (14.01.2012) on the file of the second respondent and quash the same and consequently direct the respondents to grant of family pension to the petitioner in respect of her husband Late G.Krishnan SR.No.61300 ex-sub staff from the date of his death i.e., 17.06.2003.

2.The petitioner's husband one Krishnan was the sub-staff working in the respondent Bank and after long years of service, he has given voluntary retirement and subsequently, he died on 17.06.2003. After his death, the family pension since have to be paid by the respondent Bank to the legal heir of the deceased employee. In this regard, the petitioner claimed to be the legally wedded wife of the deceased employee and made request to disburse the family pension in her favour. However, considering the same, the respondent Bank has taken a stand that, the deceased employee was already having a marital life with the first wife one Kumutha and during the subsisting wed log, if the petitioner claimed that, she also the wedded wife of the said employee, she would not be entitled to get the family pension and therefore, on that ground, on 14.01.2011 the plea of the petitioner to get family pension from the respondent Bank was turned down, challenging the same, the present writ petition has been filed.

3.Heard Mr.K.Balaji, learned counsel appearing for the petitioner, who would submit that, no doubt, the deceased employee has got married with the first wife Kumutha and in between them, there was a divorce OP filed and during the pendency of the divorce OP, in the year 2002 itself there has been a compromise between them to go for consent divorce and it has been reduced in writing on 26th April 2002 and the same having been produced before the Principal Subordinate Judge, Chengalpattu in H.M.O.P. filed by the first wife, the same having been entertained and accordingly, the settlement reached between the first wife and the deceased employee i.e., the husband of the petitioner was recorded by the Court, where, on 05.06.2002 accordingly the divorce was granted, as per the joint memo filed by both parties on consent.

4.By relying upon these developments, the learned counsel appearing for the petitioner would submit that, in the year 2002 itself, the marital relationship of the deceased employee with the first wife severed in the eye of law and therefore, the petitioner would be the legally wedded wife, however as on 14.01.2011 the impugned order has now been passed by the respondent Bank stating that, the marriage between Krishnan and the first wife was still subsisting and therefore, the marriage between Krishnan and Santha i.e., the petitioner cannot be considered to be a proper marriage in the eye of law, therefore, out of that marriage, the claim made by the petitioner as a legally wedded wife of the deceased employee cannot be accepted, accordingly, the claim of family pension made by the petitioner cannot be granted. This stand taken by the respondent Bank is against the consent decree already been recorded and granted by the Competent Court in the year 2002 itself. Therefore, the

impugned order cannot be sustained, hence, the learned counsel seeks indulgence of this Court.

5. However, Mrs. Rita Chandrasekar, learned Standing Counsel appearing for the respondent Bank would submit that, whatever the developments now had been mentioned on behalf of the petitioner and the consent decree said to have been recorded in the year 2002 itself by the Competent Court, have so far been not produced by the petitioner side and if at all the petitioner wants to produce those documents in support of her claim that, she is the legally wedded wife after 2002 since the earlier marriage with the first wife severed, because of the consent decree recorded by the Competent Court, it is open to the petitioner to produce those documents to the respondent Bank authorities and on receipt of the same, the needful would be undertaken by the Bank accordingly, she contended.

6. In this context, by way of reply, even though the learned counsel appearing for the petitioner would submit that, those documents have already been submitted to the respondent Bank, this Court feels that, in view of the definite stand taken by the learned Standing Counsel appearing for the respondents, those documents can once again be forwarded or submitted by the petitioner along with the copy of this order and based on which, the needful can be undertaken by the respondent Bank.

7. In that view of the matter, this Court is inclined to pass the following orders in this writ petition.

(i) That the impugned order is quashed and the matter is remitted back to the respondent Bank for reconsideration. Enabling the Bank to have a reconsideration, the petitioner shall forward the relevant documents including the consent divorce obtained by her husband's first wife Kumutha in the year 2002 and other allied documents in support of the claim made by the petitioner for getting family pension and those documents shall be submitted by the petitioner within a period of two weeks from the date of receipt of a copy of this order to the respondent Bank authorities and on receipt of the same, the Bank authorities shall consider the said request along with the documents to be filed in this regard by the petitioner and accordingly, pass necessary orders with regard to the grant of family pension to the petitioner within a period of eight weeks thereafter.

8.With these directions, this Writ Petition is disposed of.
No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Sgl
To

1.The Assistant General Manager,
HO: HRM Department,
Pension Cell, Indian Bank,
No.254-260, Avvai Shanmugam Salai,
Royapettah, Chennai - 14.

2.The Branch Manager,
Indian Bank,
Vaniyambadi Branch,
Vellore District.

+1cc to Mr.K.Balaji, Advocate Sr.14760
+1cc to M/s.Aiyar and Dolia, Advocate Sr.15024

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