

THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.06.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MRS. JUSTICE S. KANNAMMAL

Writ Petition No. 12229 of 2021

M. Aktharunnisha ... Petitioner

Versus

1. Union of India
rep. by The Chief Workshop Manager
Southern Railway
Carriage & Wagon Works
Perambur, Chennai - 600 023
2. Fathima Bee
3. The Registrar
Central Administrative Tribunal
Chennai ... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the third respondent dated 05.02.2021 in O.A. No. 90 of 2021 and Order of the first respondent dated 10.09.2020 rejecting the petitioner's representation dated 16.12.2019, quash the same and consequently direct the first respondent to issue Family Pension to the petitioner in view of the death of her husband A. Mohamed Jaffer worked as T.No. BL6982/Sr. Technician/CR/Fitter/CW/PER, Chennai in the first respondent department.

For petitioner : Mr. G. Magesh Kumar

ORDER

(Order of the Court was made by R. Subbiah, J)

The petitioner calls in question the order dated 05.02.2021 passed by the Central Administrative Tribunal, Chennai Bench in OA/310/00090/2021, in and by which the Tribunal dismissed the Original Application filed by the petitioner on the ground that the disputed questions sought to be adjudicated by her, has to be resolved only through a competent Civil Court.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The petitioner claims herself to be the legally wedded wife of Mohamed Jafer, who retired from the services of the

Southern Railway on 30.10.2017. According to the petitioner, her husband died on 17.12.2018 due to ailment and on his death, the petitioner is legally entitled to receive pension. It is stated by the petitioner that when her husband was alive, there was a matrimonial discord, which resulted in filing a suit in O.S. No. 128 of 2018 on the file of the learned III Additional Family Court, Chennai. It is further stated that the suit was disposed of by recording a Joint compromise filed by the petitioner and her husband on 20.07.2018. According to the petitioner, though a decree of divorce was granted by the Family Court, even thereafter, she lived with her husband and re-married him on 14.10.2018 and the said marriage was also registered on the file of the Sub-Registrar, Sembium on 14.12.2018. While so, after the death of her husband, the second respondent herein made a rival claim as if she is the legally wedded wife of late. Mohamed Jafer having married him on 30.09.2001. In this context, the petitioner, seeking to grant pension to her, has submitted a representation dated 16.12.2019 to the first respondent and it was rejected by an order dated 10.09.2020. Assailing the said order dated 10.09.2020, the petitioner has filed the Original Application before the Tribunal, which was dismissed by the order dated 05.02.2021, which is impugned in this writ petition.

3. We have heard the learned counsel for the petitioner and perused the materials placed. Admittedly, there is a dispute with respect to the status of legally wedded wife between the petitioner and the second respondent. When such a disputed question exists, it is proper for the petitioner to approach the competent Civil Court, let in evidence and prove her status as the legally wedded wife of the deceased Mohamed Jaffer. While so, the grounds raised by the petitioner in this writ petition cannot be adjudicated by this Court in exercise of the power under Article 226 of The Constitution of India. Such disputed questions have to be necessarily adjudicated only by a competent Civil Court. Therefore, liberty is given to the petitioner to approach the Civil Court for redressal of her grievance.

4. Accordingly, by giving liberty to the petitioner to approach the competent Civil Court, we confirm the order dated 05.02.2021 passed by the Tribunal. The Writ Petition is therefore dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

To

1. Union of India
rep. by The Chief Workshop Manager
Southern Railway
Carriage & Wagon Works
Perambur, Chennai - 600 023
2. The Registrar
Central Administrative Tribunal
Chennai

WP No. 12229 of 2021

CP(CO)
GN(14/07/2021)



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