



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 24.06.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.11035 of 2019

S.Palaniammal

...Petitioner

Vs

1.The Director of Local Fund Accounts,
Finance Department Complex,
4th Floor, Nandanam,
Chennai - 600 018.

2.The Executive Officer,
Thenkanikottai Selection Grade
Town Panchayat,
Thenkanikottai - 635 107,
Krishnagiri District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to sanction the Family Pension to the petitioner with effect from 18.12.2016 on the basis of the representation dated 21.11.2018 along with interest at 9% p.a. for the belated payment of Family Pension.

For Petitioner : Mr.S.A.Syed Shuhaibb
for Mr.R.Bharath Kumar

For Respondents: Mr.K.V.Sajeev Kumar
Government Counsel for R1
Ms.Lakshmi
for R2

O R D E R

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

2. The petitioner's husband, namely late K. Sri Rangan, who was employed as Office Assistant under the second respondent herein, had voluntarily retired from service on 31.08.1997. The said employee had died on 17.12.2016. Originally, the late K.Sri Rangan was married to one Malliga, who had died on 02.09.1980 and she was survived by two children. Subsequently, he had married the petitioner herein, namely S.Palaniammal, in the year 1981.



3. According to the report dated 01.06.2018 of the petitioner herein, which was issued by the first respondent herein, the marriage between her and late K.Sri Rangan took place in the year 1981 as per customs and rites. The first respondent herein had also earlier passed an order in P.P.O.No.9200 dated 26.08.1998, affirming that the Family Pension of late K.Sri Rangan would be paid in favour of the petitioner herein. The petitioner's claim for Family Pension has now been withheld by the respondents on the ground that she had not produced a succession certificate to claim the Family Pension.

4. The learned counsel for the petitioner would submit that when the first respondent herein had already passed orders recognizing the entitlement of the petitioner for Family Pension, the present objection raised by the respondents for production of succession certificate cannot be sustained.

5. On the other hand, the learned Government Counsel appearing for the first respondent would submit that as per the Tamil Nadu Pension Rules, 1978, the petitioner is required to furnish the succession certificate, since she happens to be second wife of the late employee. In this context, the learned counsel relied on the averments made by the first respondent in the counter affidavit. The second respondent's counsel had also adopted the submission of the Government Counsel.

6. The stand taken by the first respondent in the counter affidavit is that a succession certificate is required to disburse the Family Pension in favour of the second wife, as per Rule 49-7(c) of the Tamil Nadu Pension Rules, 1978. This Court is not in conformity with such a stand taken.

7. Rule 49-7(c) would relate to a situation only when the second marriage was made during the subsistence of the earlier marriage. The respondents seek to rely on the explanation to Rule 49-7(c) of the Tamil Nadu Pension Rules, in this regard. In the instant case, the Death Certificate of the first wife evidences that she had died on 02.09.1980 and the affidavit sworn in by the petitioner before the respondent evidences that the marriage took place in the year 1981 as per customs and rites. The first respondent had also passed orders recognizing that the petitioner would be entitled for the Family Pension. As such, the stand taken by the respondent that a succession certificate is mandatory, cannot be sustained.

8. The learned counsel for the petitioner also brought to the notice of this Court G.O.Ms.No.31, Finance (Pension) Department dated 09.01.1996 and Government Letter No.1534, Revenue Department dated 28.11.1991, which clarifies that the necessity of furnishing a succession certificate would arise only when the deceased employee has not mentioned the name of



the wife, who would be entitled for Family Pension, particularly, when he has two wives. Whereas, in the present case, the petitioner was legally married after the death of the first wife and her name has also been mentioned in the pension records, with regard to her entitlement for Family Pension. While that being so, there was no justification on the part of the respondents in withholding the pension all these years.

9. In the light of the above observations, the first respondent herein shall reconsider the petitioner's application seeking for Family Pension, as reiterated in the representation dated 21.11.2018 and disburse the required Family Pension in favour of the petitioner and any other eligible person. It is made clear that while passing such orders, the first respondent herein shall take into account the observations made by this Court in the present order and pass favourable orders to disburse the Family Pension, within a period of three months from the date of receipt of a copy of this order.

10. Accordingly, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

hvk

To

1.The Director of Local Fund Accounts,
Finance Department Complex,
4th Floor, Nandanam,
Chennai - 600 018.

2.The Executive Officer,
Thenkanikottai Selection Grade
Town Panchayat,
Thenkanikottai - 635 107,
Krishnagiri District.

+1cc to M/s.R.Bharath Kumar, Advocate SR.No. 29522

+1cc to M/s.D.Suriya Narayanan, Advocate SR.No. 29465

W.P.No.11035 of 2019

PMK(CO)

B.VC(15.07.2021)