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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.28176 of 2016

(Through Video Conferencing)

K.Indirani

... Petitioner

Vs.

1.The Commissioner of Corporation,
Corporation of Chennai,
Rippon Building, Park Town,
Chennai - 600 003.

2.The Accounts Officer,
Public Department, Pension Section,
Corporation of Chennai,
Rippon Buildings, Park Town,
Chennai - 600 003.

3.Marimuthu

... Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, to direct the first and second respondents herein to confer the family pension to the petitioner and also the arrears of family pension with effect from 20.09.2011 onwards i.e, from the date on which the petitioner's deceased husband P.Kannaiah died.

For Petitioner : Mr.R.S.Anandan

For R1 & R2 : M/s.Karthikaa Ashok
Senior Standing Counsel



O R D E R

This Writ Petition has been filed for issuance of a Writ of Mandamus, to direct the first and second respondents to confer the family pension to the petitioner and also the arrears of family pension with effect from 20.09.2011 onwards i.e, from the date on which the petitioner's husband P.Kannaiah died.

2. The petitioner's husband P.Kannaiah was employed with the Chennai Corporation and had retired from service on 30.06.2008 and was receiving pension. The petitioner's husband thereafter died on 20.09.2011 and therefore, the petitioner therefore sent a representation dated 13.10.2011 enclosing the legal heir certificate.

3. The second respondent called upon the petitioner to furnish all the requisite documents vide letter dated 25.01.2012. Later, the petitioner came to know that the third respondent, who according to the petitioner was the second wife of the petitioner's husband late P.Kannaiah had also claimed the pension and the terminal benefits on account of the death of the petitioner's husband late P.Kannaiah stating that she is the legally wedded wife of the deceased P.Kannaiah.

4. Appearing on behalf of the petitioner, the learned counsel submits that the third respondent has filed O.S.No.54 of 2014 before the III Additional Family Court, Chennai, to declare that the third respondent is the legally wedded wife of late P.Kannaiah and to direct the first and second respondents to grant family pension to the third respondent. In the said O.S.No.54 of 2014, a compromise Judgment and Decree was passed on 13.02.2018, in terms of which, the third respondent had admitted that she will be satisfied if a sum of Rs.1,50,000/- is paid out of the pensionary benefits to the third respondent. The operative portion of the said compromise Judgment and Decree dated 13.02.2018 in O.S.No.54 of 2014 is reproduced below:-

21. Joint Compromise Memo signed by the plaintiff and 4th defendant herein and was marked as Ex.C1.



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The Joint Compromise Memo signed by the plaintiff and 4th defendant herein mutually agree to settle the matter mutually on the following terms:

1. The plaintiff agreed to accept Rs.1,50,000/- alone from the arrears of pension amount due to their deceased husband (P.Kannaiah) as on date. Balance arrears of amount of hereby shall be handed over to the 4th defendant.
2. The plaintiff will not claim the future pension amount and arrears of pension amount apart from the above stated amount of Rs.1,50,000/- and 4th defendant permitted to receive the future family pension hereafter.
3. The plaintiff has to handover the pension book and other relevant papers relating to the deceased Kannaiah to the 4th defendant.
4. Further the plaintiff has not other claims in whatsoever manner.

In the result the suit is decreed as per terms and conditions of the Joint compromise dated 13.2.2018 and same is form part of the decree and no cost.

5. Considering the same, the petitioner is directed to serve complete set of documents along with a copy of the compromise Decree dated 13.02.2018 passed by the III Additional Family Court, Chennai, in O.S.No.54 of 2014 before the first and second respondents, within a period of thirty (30) days from the date of receipt of a copy of this order.

6. The first and second respondents are directed to consider the compromise Decree dated 13.02.2018 in O.S.No.54 of 2014 and scrutinise the same and pass appropriate orders and sanction the pension to the petitioner in terms of the aforesaid compromise Decree dated 13.02.2018 in O.S.No.54 of 2014, within a period of six weeks thereafter.



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7. Accordingly, this Writ Petition is disposed. No cost.

Sd/-
Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

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To

1.The Commissioner of Corporation,
Corporation of Chennai,
Rippon Building, Park Town,
Chennai - 600 003.

2.The Accounts Officer,
Public Department, Pension Section,
Corporation of Chennai,
Rippon Buildings, Park Town,
Chennai - 600 003.

+1CC to M/s.Karthikaa Ashok, Advocate, SR.No. 52594
+1CC to M/s.R.S.Anandan, Advocate, SR.No. 52535

W.P.No.28176 of 2016

MG(CO)
B.VC (02/11/2021)