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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.12504 of 2021

R.Ramaiah

... Petitioner

Vs.

1. The District Collector,
Thiruvannamalai District.
2. The Accountant General (A&E),
Tamil Nadu, 361, Anna Salai,
Chennai - 600 018.

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 2nd respondent to pass orders on the proposal sent by the 1st respondent in his letter No.F3/3179/2016, dated 28.10.2016 sanctioning Family Pension to the petitioner's wife Tmt.K.Maheswari within a stipulated time frame.

For Petitioner : Mr.M.Alagu Goutham

For Respondents : Dr.S.Suriya
Govt. of Tamil Nadu (Civil Side)

O R D E R

The relief sought for in the Writ on hand is to direct the second respondent to pass orders on the proposal sent by the 1st respondent in his letter No.F3/3179/2016, dated 28.10.2016 sanctioning Family Pension to the petitioner's wife Tmt.K.Maheswari.



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2. The petitioner was holding the post of Deputy Tahsildhar and retired from service by attaining the age of superannuation on 30.06.2005. The petitioner married one R.Karpagam during the year 1972 and out of their wedlock, three children were born namely, Ramachandran, Gajalakshmi and Sudhakar. The name of the first wife of the petitioner, R.Karpagam, was entered in his service register with regard to the payment of retirement benefits and also for the Family Pension. Unfortunately, the first wife of the petitioner Karpagam died due to Uterus Cancer on 11.02.1997 and the said fact was duly intimated to the Government. During the relevant point of time, the petitioner was serving in Thiruvannamalai Revenue Unit.

3. Subsequently, the petitioner got married to Tmt.K.Mageswari, D/o.Krishnappa Naidu, in order to take care of the children, on 18.09.1997. Out of the said wedlock, two children were born namely, Bharani and Logeswari and both of them are now studying in the College. The children of the first wife have completed their studies and got married and settled down separately. At this point of time, the petitioner submitted an application to enter the name of his second wife Tmt.K.Mageswari, in his Pension Payment Order and for payment of Family Pension and other benefits, in the event of demise of the



petitioner, who is Pensioner. The said application was forwarded by the first respondent to the second respondent, the Accountant General, Chennai, and no action has been taken to incorporate the name of the second wife of the Writ Petitioner in the Pension Payment Order and therefore, the petitioner has constrained to move the present Writ Petition.

4. The learned counsel appearing for the petitioner made a submission that the second marriage of the petitioner with Tmt.K.Mageswari, was solemnized after the death of the first wife and therefore, the second marriage is legally valid. In view of the death of the first wife, the respondent ought to have incorporated the name of the second wife, as nominee, for the purpose of availing terminal and service benefits of the Family Pension. The first respondent has sent the proposal to the second respondent and the same has not been considered. However, the legal heirs certificate, which is enclosed in the additional typed set of papers filed along with the present Writ Petition, reveals that the name of Tmt.K.Mageswari is not found. Therefore, the petitioner has to submit proper records in order to establish the second marriage with Tmt.K.Mageswari was solemnized after the death of the first wife and the marriage was solemnized in accordance with law.

5. In the event of establishing these facts with regard



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to the documents and evidences available, the authority would be in a position to consider the claim of the Writ Petitioner to incorporate the name of the second wife Tmt.K.Mageswari in his service records. As the legal heirs certificate reveals that the name of the second wife is not found, the petitioner has to submit all the relevant documents to establish the validity of the second marriage and only thereafter, the respondents would be in a position to consider the case of the Writ Petitioner.

6. In this context, the petitioner is at liberty to submit all the relevant documents and evidences to establish the legal validity of the second marriage with Tmt.K.Mageswari by submitting a fresh application and in the event of producing any such application by the petitioner, the respondents are bound to consider the same in accordance with provisions of the Service Rules and pass an appropriate order as expeditiously as possible.

With these observations, the Writ Petition is disposed of. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

asi/dpq



To

1. The District Collector,
Thiruvannamalai District.

2. The Accountant General (A&E),
Tamil Nadu, 361, Anna Salai,
Chennai - 600 018.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.27597

+1cc to the Government Pleader, S.R.No.27621

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PMK (CO)
SU(19/07/2021)