

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.12565 of 2021  
and W.M.P.No.13356 of 2021

R.Banumathi

..Petitioner

Vs.

1. The Chief Educational Officer,  
Vellore District,  
Vellore Collectorate Office,  
Tamil Nadu Housing Board,  
Vellore 632 012.
2. The District Educational Officer,  
Arakkonam Taluk,  
Vellore District.
3. Block Level Educational Officer,  
Nemili Taluk,  
Vellore District.
4. Lakshmipriya
5. Minor V.L.Harshadha  
Rep. By her Mother/Natural Guardian,  
Lakshmipriya, 4<sup>th</sup> respondent herein

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to issue a separate and individual cheque or demand draft in the name of the petitioner with regard to her 1/3<sup>rd</sup> share in the deceased estate namely Contributory Pension Scheme Amount (CPS), Employees Family Security Fund and other service benefits of S.Vijayakumar, Secondary Grade Teacher in Panchayat Union Primary School, Chittery, who died on 30.01.2021 while in service.

For Petitioner : Mr.S.Vijay Anand

For Respondents : Dr.S.Suriya (For R1 to R3)  
Government Advocate

## ORDER

The relief sought for in the present writ petition is to direct the respondents 1 to 3 to issue separate and individual Cheque or Demand Draft in the name of the petitioner with regard to her 1/3<sup>rd</sup> share in the deceased estate namely Contributory Pension Scheme Amount (CPS), Employees Family Security Fund and other service benefits of one S.Vijayakumar, Secondary Grade Teacher in Panchayat Union Primary School, Chittery, who died on 30.01.2021 while in service.

2. The petitioner states that her eldest son late S.Vijayakumar was working as a Secondary Grade Teacher in R.U.E. School, Chitteri. He married the 4<sup>th</sup> respondent and out of the said wedlock, the 5<sup>th</sup> respondent, girl child born. The 5<sup>th</sup> respondent is a test-tube baby born to the couples. The petitioner states that the 4<sup>th</sup> respondent humiliated and caused mental agony to the deceased son of the petitioner and now she has no independent source of income. Thus, the family pension and pensionary benefits to be paid to the wife of the deceased must be shared and the petitioner claims 1/3<sup>rd</sup> share from the Contributory Pension Scheme Amount (CPS).

3. Under the Pension Schemes/Rules, the spouse of the Government employee is entitled to get family pension. As far as the terminal benefits are concerned, if there is any specific nomination in the service records of the Government employee, then the nominee is entitled to receive the same. In the absence of any nomination, the benefit is sought to be settled in favour of the spouse. In the present case, the wife of the deceased employee is entitled for pensionary benefits and for family pension under the Pension Scheme. As far as the parents of the deceased employee is concerned, even in case they are not having other sources of income, they are entitled to approach the competent authorities under the provisions of the Senior Citizen Act for redressal of their grievances. Contrarily, the family pension or pensionary benefits cannot be settled in violation of the Pension Rules/Pension Schemes.

4. The petitioner herself admits that she is having another son who is also an earning member. If at all the petitioner is unable to maintain herself on account of old age, she is at liberty to claim maintenance from her son and daughter by invoking the provisions of the Maintenance and Welfare of the Parents and Senior Citizen Act, 2007. But, the fact remains in the present case that the 4<sup>th</sup> respondent is the widow of the deceased employee and 5<sup>th</sup> respondent is the minor daughter of the deceased employee. Thus, the wife of the deceased employee is entitled for family pension and she has to look after the minor

and under these circumstances, this Court cannot issue any direction to share the family pension so as to grant relief to the petitioner who is the mother of the deceased Employee.

5. The petitioner is unable to establish any right with reference to the Pension Scheme/Rules. In the absence of Rules, the family pension or pensionary benefits cannot be shared between the legal heirs. The right of property to the legal heirs of a deceased employee is no way connected with the Pension Scheme and payment of family pension to the spouse of the deceased employee. The petitioner as the mother of a deceased employee may have legal right in the property. However, she cannot claim the benefit of family pension or to seek the relief of sharing the family pension which is to be paid to the spouse of the deceased employee as per the Pension Rules.

6. This being the factum, the relief as such sought for in the present writ petition is devoid of merits and the respondents 1 to 3 have to initiate all further action to settle the pensionary benefits and family pension in favour of the 4<sup>th</sup> respondent, who is the wife of the deceased employee.

7. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-  
Assistant Registrar (CS-V)

// True Copy //

Sub Assistant Registrar

gsa

To

1. The Chief Educational Officer,  
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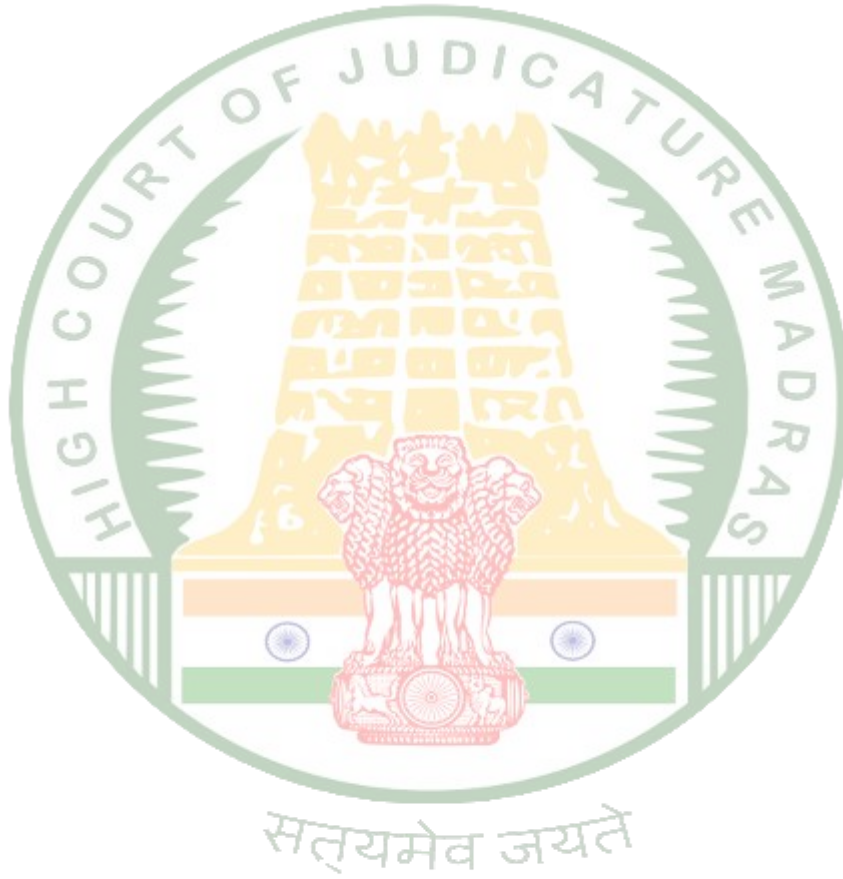
+2ccs to Mr.S.Vijay Anand, Advocate, SR.No.27699

+1cc to the Government Pleader, High Court, Madras, SR.No.27658

W.P.No.12565 of 2021

PPA (CO)

RLP (13.07.2021)



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