



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

Writ Appeal No.2306 of 2021

Elizabeth

... Appellant/Petitioner

vs.

1. The Superintending Engineer,
General Construction Circle (SE/GCC/Salem),
Tamil Nadu Electricity Board,
Kamaraj Nagar Colony,
Aathur Bypass Road,
Salem 14.

2. The Deputy Chief Local Fund Audit Officer,
Audit Branch (Pension),
Chennai 600 002.

... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 23.06.2021 passed by this Court in W.P.No.13018 of 2021.

Prayer in WP.No.13018 of 2021:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified Mandamus, to call for the records relating to the proceedings of the first respondent vide Ka.No.1365/Nee.pi.1/Nee.Vou.2/kho.ku.O/2020 dated 20.04.2020 and quash the same consequently direct the 1st respondent to pay the accumulated arrears of Family Pension payable from the date of death of the petitioner's husband Varathan, till the monthly family pension is paid along with interest at the rate of 12% p.a.

For Appellant : Mr.T.Muruganantham

For 1st Respondent : Mr.P.Subramanian

For 2nd Respondent : Mr.K.Tippu Sulthan,
Government Advocate



J U D G M E N T

(Judgment of the Court delivered by S.VAIDYANATHAN,J.)

Aggrieved by the order dated 23.06.2021 passed by the learned Single Judge in W.P.No.13018 of 2021, whereby, her claim for the terminal benefits of her husband was rejected, the Writ Petitioner has come up with this Writ Appeal.

2. Heard the learned counsel on either side and perused the material documents available on record.

3. Admittedly, the Writ Petitioner, who is the Appellant herein married one K.Varadhan during the subsistence of his marriage with one Mary Vaseegaram. Even going by the Affidavit of the Writ Petitioner, it is seen that, Late Varadhan married the Writ Petitioner on 11.04.1985 as per Christian Rites and Customs and the same was registered in Sub-Registrar Office-II, Vellore. In paragraph 5 of the Affidavit, the Writ Petitioner has categorically stated that, during his service, her husband Varadhan had nominated his wife Mary Vaseegaram as his nominee. After the death of Mary Vaseegaram on 10.08.2012, the said Varadhan did not mention the name of the Appellant/Writ Petitioner as his nominee.

4. The only ground taken by the Appellant/Writ Petitioner in the present Appeal is that, second marriage is permitted in the custom of the deceased employee and in terms of Tamil Nadu Pension Rules, 1978, the Government is empowered to relax and extend pensionary benefits to her.

5. We are not inclined to accept the said contention of the Appellant as Personal Law prohibits second marriage. If the contention of the Appellant is accepted, every other person will come and knock at the doors of this Court, that, as per their custom, second marriage is permissible and that, they are entitled to pensionary benefits.

6. Even though, the Appellant has produced her Marriage Registration Certificate vide Document No.98/1985, dated 12.04.1985 to substantiate her claim, any marriage performed during the subsistence of the first marriage is invalid and hence, the marriage between the Appellant and the said Varadhan cannot be held to be valid in the eye of law. In view of the same, the order of the learned Single Judge does not require any interference by this Court.

7. Innumerable cases like the present one on hand are being witnessed by this Court. Fact remains that, there is no methodology available to ascertain as to whether a person is



married or not and that, the question of second marriage comes to light only in cases of counter-claim of terminal benefits of the deceased employee. In this regard, this Court is of the view that, Aadhaar number is linked even for the purpose of registration of marriage by click of a button, so that, Sub-Registrars in other places could easily verify about the subsistence of the earlier marriage, if any, and genuineness of the marriage, as it is very difficult to find out whether a person has contracted second marriage during the subsistence of the first marriage.

In fine, this Writ Appeal is dismissed with the above observation. No costs. Consequently, connected C.M.P.No.14641 of 2021 is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

(vm/aeb)

To:

1. The Superintending Engineer,
General Construction Circle (SE/GCC/Salem),
Tamil Nadu Electricity Board,
Kamaraj Nagar Colony,
Aathur Bypass Road,
Salem 14.
2. The Deputy Chief Local Fund Audit Officer,
Audit Branch (Pension),
Chennai 600 002.

+1cc to Mr.T.Muruganantham, Advocate, S.R.No.46201

W.A.No.2306 of 2021

RR(CO)
CB(18/10/2021)