



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2021

CORAM

THE HONOURABLE Mr.JUSTICE V. PARTHIBAN

W.P.No.19433 of 2021

S.Dhanalakshmi

...Petitioner

Versus

1. The Commissioner of Police,
Greater Chennai City Police,
132, EVK Sampath Road, Vepery,
Chennai 600 007.
2. The Joint Commissioner of Police,
North Zone, Thondaiyarpeth
Greater Chennai City Police
Chennai - 600 021
3. Inspector of Police
M-4, Red Hills (L & O) Police Station
Chennai - 600 052
4. The Accountant General of Tamil Nadu (A & E)
Theynampet
Chennai - 600 018

...Respondents

Prayers: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the second and fourth respondents herein to sanction and disburse the family pension and other terminal benefis due to the petitioner based on the proposal of the second respondent herein in his proceedings R.C.No.Pension (N)/809/21285/2014 dated 03.10.2016 without insisting for the death certificate of Ms.Porselvi (died in the year 1985) the first wife of the petitioner's husband, together with interest within a time-frame as deem fit by this Court .

For Petitioner : Mr.G.Bala

For Respondents : Mr.G.Krishnaraja
Government Advocate for R1 to R3
No Appearance for R4



O R D E R

Petitioner's husband was serving in Police Service as Grade II Police Constable initially. He was promoted as Head Constable on 22.07.2002. According to the writ petitioner, her husband rendered 28 years of service in the Police Department. Prior to joining the Police Department, petitioner's husband was married to one Ms.Porselvi and from their wed-lock, they had a son by name S.Udhayakumar, born on 18.11.1984. When the son was six months old, Ms.Porselvi died (unfortunately, the death of the first wife was not registered in the Government records).

2. Three years after the demise of first wife, the Head Constable married the petitioner on 02.06.1988 and the marriage was registered on the file of Sub-Registrar, Adayar as Dcoument No.48 of 1988 dated 02.06.1988 and from the second wed-lock, a male child was born on 31.10.2001 (S.Suryakumar).

3. After serving for about 28 years, the husband of the petitioner died on 10.11.2014. The petitioner had also applied for Death Certificate and also Legal Heir Certificate from the concerned authorities and submitted a representation on 06.04.2015 to the first respondent for disbursement of family pension, seeking compassionate appointment and the admissible terminal benefits.

4. On receipt of the representation, the first respondent forwarded the proposal on 10.04.2015 to the second respondent for further action. The second respondent, vide his communication dated 28.04.2015 directed the third respondent to obtain Death Certificate of the petitioner's husband's first wife in order to process the proposal of the first respondent. However, till date, no progress has been made, despite the fact that the petitioner has produced the Death Certificate of her husband and Legal Heirship Certificate showing two sons, one from the first wed-lock and second one from the second marriage between the petitioner and her Late husband Mr.P.Sekar.

5. Learned counsel appearing for the petitioner reiterated the above facts and also drew the attention of this Court to various certificates produced in support of the claim, namely, Marriage Certificate dated 02.06.1988, Nomination Certificate dated 20.02.2000, Death Certificate dated 28.11.2014, Proceedings of Revenue Inspector dated 28.12.2014 and Legal Heir Certificate dated 16.03.2015, all of which have been appended to the typed set of papers filed along with the Writ Petition.

6. According to learned counsel, despite the fulfilment of all the requirements in law, for the last five years, no progress has been made and the petitioner has not been



sanctioned with retirement and other pensionary benefits as per her entitlement on the death of her husband as early as on 10.11.2014.

7. Mr.G.Krishnaraja, learned counsel appearing for the State would submit that only because of the fact that Death Certificate of the first wife Ms.Porselvi was not produced, further action could not be taken in the matter.

8. This Court is unable to countenance such arguments. According to the writ petitioner, death of first wife of Late P.Sekar was unfortunately not registered at the time of her death in 1985. In the absence of the registration of the death, the petitioner herein is unable to produce the Death Certificate of the first wife of her Late husband as demanded by the authority.

9. This Court, in consideration of the fact that the Legal Heirship Certificate has been produced by the petitioner in which it is declared by the competent authority that the petitioner and two sons (one from the first wedlock of her husband with Ms.Porselvi and the other from the second wedlock of her husband with the petitioner) are shown as legal heirs of late P.Sekar, is of the view that her representation has to be considered favourably without insisting for any production of non-existent death certificate of the first wife. Further the marriage between the petitioner and her late husband was a registered marriage and also she has been nominated in the Service Register of late husband. These materials would cumulatively demonstrate that petitioner herein is entitled to the sanction of the retirement benefits due and payable on the death of her husband and family pension.

10. Although several proceedings of the official respondents have been filed, but unfortunately none of the proceedings has finally culminated in sanctioning of the retirement benefits and her family pension.

11. This Court is of the considered view that documents as such which are made available, are fair enough to be accepted by the authorities for sanctioning of the retirement benefits and family pension without insisting on the production of Death Certificate of Ms.Porselvi, who was stated to be the first wife of petitioner's late husband P.Sekar. The documents, which are produced by the petitioner are statutory documents which are presumed to be valid and legally acceptable and therefore, there is no question of further insisting on production of the Death Certificate of first wife of petitioner's late husband P.Sekar.



12. In the above circumstances, this Court directs the respondents herein/competent authority to sanction the retirement and other pensionary benefits to the petitioner in pursuance of the proposal of the second respondent dated 03.10.2016 with admissible interest if the petitioner is entitled to in terms of the relevant Service Rules, by passing appropriate orders in that regard, within eight weeks from the date of receipt of a copy of this order.

13. The writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

gpa/pbl

To

1. The Commissioner of Police,
Greater Chennai City Police,
132, EVK Sampath Road, Vepery,
Chennai 600 007.
2. The Joint Commissioner of Police,
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Chennai - 600 052
4. The Accountant General of Tamil Nadu (A & E)
Theyampatt, Chennai - 600 018.

+1cc to Mr.G.Bala & Daisy, Advocate, S.R.No.57497
+1cc to the Government Pleader, S.R.No.57894

W.P.No.19433 of 2021

AD[co]
NSK 03/12/2021