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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.20649 OF 2021

(Through Video Conferencing)

Kulandai Theresa

... Petitioner

Vs

1. The Inspector- General of Registration,
Chennai - 28.
2. The Principal Accountant- General (A&E),
Tamil Nadu, Chennai - 18.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 2nd Respondent to consider the claim by the petitioner for family pension, consequent on the death of her husband Mr.S.M.Isaac (Pensioner -PPO No. A 105057) on 5.02.2018 and authorise payment of family pension w.e.f. 06.02.2018 to the petitioner within a limited time frame and to disburse the arrears forthwith in the light of her representation dated 02.09.2020.

For Petitioner : Mr.G.Punniakoti

For Respondents : Mr.V.P.R.Elamparithi
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.



2.This writ petition has been filed for a Mandamus, to direct the 2nd Respondent to consider the claim by the petitioner for family pension, consequent on the death of her husband Mr.S.M.Isaac (Pensioner -PPO No. A 105057) on 5.02.2018 and authorise payment of family pension w.e.f. 06.02.2018 to the petitioner within a limited time frame and to disburse the arrears forthwith in the light of her representation dated 02.09.2020.

3.The petitioner is a 89 years old senior citizen who has filed has the application after the death of her husband. In the Pension book the name of the petitioner has been given as Samala Kulandai whereas the petitioner's name is Kulandai Theresa.

4.It is submitted that even the 1st respondent Inspector General of Registration has sent clarification/letter dated 16.05.2018 to the office of the 2nd respondent Accountant General (A&E) has recommended sanction of family pension to the petitioner who is wife of late Mr.S.M.Isaac, Sub Registrar (Retd) who passed away on 05.02.2018.

5.In the pension pay order of the year 1978, the name of the petitioner has been given as Samala Kulandai whereas maiden name of the petitioner is Theresa Kulandai. There is a minor transcription error in the pension paper while transcribing the name of the petitioner in the pension order as Samala Kulandai. Even though the petitioner had not officially changed her name as Samala Kulandai.

6.The 1st respondent by a recommendation dated 16.05.2018 to the 2nd respondent, has recommended that the family pension be paid to the petitioner as the person named in the pension paper and the petitioner are one and the same.

7.The said recommendation of the 1st respondent is based on the certificate of the Tahasildar, Mylapore Taluk vide communication dated 19.04.2018 bearing reference D.Dis.A.S/2606/2018. It has been confirmed that the petitioner is the indeed wife of the deceased pensioner late Mr.S.M.Issac.



8.From a perusal of the death Certificate dated 05.02.2018 of the petitioner's husband, it is also to be noted that the name of the petitioner's father-in-law/father of her husband late Mr.S.M.Issac is Mr.Samala Mariana. Thus, the initials S.M in S.M.Issac denotes Samala Marianna. Thus, the name of the petitioner's name in the pension paper has been transcribed as Samala Kulandai and the said name comes from the petitioner's husband late Mr.Samala Marianna Issac (S.M.Issac).

9.Further, the pension pay order is of the year 1978 when the petitioner's husband, late Mr.S.M.Issac (Mr Samala MarianaIssac) S/o. Samala Mariana was working with the Government and was given government pension on his retirement. It is also to be noted that during the last millennium, it was not uncommon for the wife's name to be changed with her husband's name without actually making any affidavit and gazette publication.

10.It is evidence that the petitioner's name was transcribed as Samala Kulandai in place of her maiden name Theresa Kulandai after her marriage to husband late Mr.Samala Marianna Issac.

11.The Court is convinced that name Samala Kulandai represents the petitioner Theresa Kulandai in the pension paper. There is absolutely no excuse for further delay in sanctioning the pension to the petitioner, an octogenarian who is aged about 89 year on the date of the writ petition. The petitioner has been wrongly deprived of family pension after the demise of her husband late Mr.S.M.Issac (Mr.Samala Marianna Issac). It is said that the petitioner has been driven to Court in her evening of her life.

12.Under these circumstances, the 2nd respondent is directed to pay the arrears of family pension to the petitioner within a period of 60 days from the date of receipt of a copy of this order. At the same time, the 2nd respondent is directed to start paying family pension to the petitioner for every month by the due date. The pension for the month of October-November 2021 alone shall be paid to the petitioner by 15th of November 2021, to facilitate the 2nd respondent to do the necessary paper.



This order shall be complied on the strength of Web copy of the order. Registry is also directed to issue the order copy immediately.

WEB COPY 13. This writ petition stands allowed with the observations. No costs.

Sd/-
Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

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To

1. The Inspector- General of Registration,
Chennai - 28.
2. The Principal Accountant- General (A&E),
Tamil Nadu, Chennai - 18.

+1cc to Mr.G.Punniakoti , Advocate, S.R.No.49880

+1cc to the Government Pleader, S.R.No.50877

W.P.No.20649 of 2021

KV(CO)
RLP(22/11/2021)