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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.21883 of 2021
and
W.M.P.No.23080 of 2021

(Through Video Conferencing)

M.Radhakrishnan

... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Govt.,
Rural Development and Panchayat
Raj Department,
Secretariat, Chennai - 600 009.

2.The Accountant General, (A&E),
No.261, Anna Salai,
Teynampet, Chennai - 600 018.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent in connection with the impugned orders of rejection passed in his Proceedings No. Pen3/I/PT.14601/33336 dated 16.11.2020 and Proceedings No. Pen2/I/10200543/Tn/09-10-Adk/138 dated 29.07.2009 and quash the same as arbitrary and consequently direct the respondents to include the Petitioner's second wife namely, Mrs.R.Revathy in the Pension Payment Order as a nominee to receive the family pension as per the proposal of the District Collector, Tiruchirappalli in Rc.R7/5371/09 dated 15.05.2009.

For Petitioner : Mr.K.Sannjay

For R1 : Mr.L.S.M.Hasan Fizal,
Govt. Adv.

For R2 : Mr.V.Vijay Shankar



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O R D E R

This Writ Petition is taken up for final disposal after hearing the learned counsel for the petitioner and the learned Government Advocate for the first respondent and the learned counsel for the second respondent.

2. In this Writ Petition, the petitioner has challenged the impugned orders of rejection dated 16.11.2020 bearing reference Proceedings No. Pen3/I/PT.14601/33336 and dated 29.07.2009 bearing reference Proceedings No. Pen2/I/10200543/Tn/09-10-Adk/138 of the second respondent and for a direction to the respondents to include the petitioner's second wife namely, Mrs.R.Revathy in the Pension Payment Order as a nominee to receive the family pension as per the proposal of the District Collector, Tiruchirappalli in Rc.R7/5371/09 dated 15.05.2009.

3. The petitioner is aged about 72 years who retired from service on 31.07.2007 as a Block Development Officer on attaining the age of superannuation. It is submitted that during the subsistence of petitioner's marriage to his first wife, namely, Mrs.R.Vasantha, the petitioner contracted second marriage on 27.05.1992 with the said Mrs.R.Revathy.

4. It is also submitted that on 21.04.2009, the petitioner had sent a request to the Block Development Officer, Thuraiyur, to include the name of both the first and second wives as nominees in the Pension Payment Order, so that, they can receive the family pension. On receipt of the same, the Block Development Officer sent a letter to the District Collector, Trichy District to take appropriate steps. It is submitted that the District Collector also recommended thereafter to the second respondent vide Rc.R7/5371/09, dated 15.05.2009 to include the name of second wife of the petitioner in the Family Pension Order.

5. It is the further case of the petitioner that the second respondent however rejected the same vide impugned dated 29.07.2009 bearing reference Proceedings No. Pen2/I/10200543/Tn/09-10-Adk/138 and therefore, the petitioner sent another representation dated 18.10.2020 which was also rejected by the second respondent vide impugned order dated 16.11.2020 bearing reference Proceedings No. Pen3/I/PT.14601/33336.

6. The learned counsel for the petitioner further submits that on 10.08.2020, the first wife of the petitioner has died and thereafter, there is no difficulty in including the name of the petitioner's second wife Mrs.R.Revathy as a nominee to receive the family pension. He further places reliances on the decision in the case of C.Sarojini Devi Vs. The Director of



Local Fund Audits and others, dated 23.01.2020, rendered by this Court in W.P.No.34952 of 2019. This Court in the above case has held that "this Court has to necessarily lean towards the presumption of marriage".

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7. The learned counsel for the second respondent submits that the petitioner ought not to have contracted the second marriage during the lifetime of his first wife and the respondents cannot be asked to include the name of the second respondent in the Pension Payment Order even though the first has died on 10.08.2020.

8. Heard the learned counsel for the petitioner, the learned Government Advocate appearing for the first respondent and the learned counsel for the second respondent and perused the records including the impugned two rejection orders dated 29.07.2009 and 16.11.2020.

9. The facts of the case are that the petitioner had contracted the second marriage on 27.05.1992. The petitioner thus committed bigamy. However, the petitioner was not dealt with department while in service. The petitioner's first wife, named R.Vasantha has now died on 10.08.2020 as is evident from a reading of Death Certificate dated 25.08.2020.

10. Considering the fact that the petitioner's first wife has died on 10.08.2020, there should not be difficulty in recognising the petitioner's second wife Mrs.R.Revathy as a nominee for the purpose of grant of family pension. The impugned orders dated 29.07.2009 and 16.11.2020 of the second respondent are therefore quashed with consequential direction to the second respondent to include the name of the petitioner's second wife Mrs.R.Revathy in the Pension Payment Order and in the other Registers / Records.

11. The petitioner is directed however to submit a fresh representation including a copy of the Death Certificate of his first wife R.Vasantha, within a period of one month from the date of receipt of a copy of this order.

12. The second respondent shall pass appropriate orders and take necessary steps to include the name of the petitioner's second wife Mrs.R.Revathy in the Pension Payment Order, within a period of two months thereafter.



13. This Writ Petition is allowed with the above directions.
No cost. Consequently, connected Miscellaneous Petition is closed.

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SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To

1.The Secretary to Government,
Rural Development and Panchayat Raj Department,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.

2.The Accountant General, (A&E),
No.261, Anna Salai,
Teynampet, Chennai - 600 018.

+1cc to Mr.Sanjay, Advocate Sr.57592
+1cc to the Government Pleader Sr.57707

W.P.No.21883 of 2021 and
W.M.P.No.23080 of 2021

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srg 29/11/2021