

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.12899 of 2014
and
M.P.No.1 of 2014

A.Santhi

... Petitioner

Vs

1.The Deputy Director of Ex-serviceman Welfare,
Salem - 636 001.

2.The Principal Accountant General (A&E),
Tamilnadu, Chennai - 600 018.

3.Krithiga

4.Gopikrishnan

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents 1 and 2 to disburse to the petitioner the retiral and pensionary benefits payable on the death of her husband G.Arumugam on 13.05.2013, while serving as Welfare Officer in the Office of the first respondent.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.R.Selvam, GA - R1
Ms.T.S.Selvarani - R2
Mr.D.Shivakumaran - R3 & R4

ORDER

The prayer made in this writ petition is to issue a mandamus, directing the respondents to disburse the retiral and pensionary benefits due to the petitioner's husband viz., G.Arumugam.

2.It is the case of the petitioner that her husband by name, G.Arumugam, was employed as Welfare Officer in the office of the first respondent and while in service, he died on 13.05.2013 in a road accident. His first wife by name Saraswathi predeceased

him on 25.12.1994 and through her, two children were born, who are none other than the respondents 3 and 4 herein. According to the petitioner, she is the legally wedded second wife and has one male child; and the deceased nominated her to receive the retiral and pensionary benefits and submitted a nomination form, which was duly recorded in the service register by the first respondent.

3.It is the further case of the petitioner that consequent to the death of her husband, the petitioner made a representation on 22.05.2013 to the first respondent, requesting to grant pension and other benefits payable to her husband. The first respondent inturn called her to produce the relevant documents. Accordingly, the petitioner submitted all the requisite documents. In the mean while, the respondents 3 and 4 filed a suit in O,S.No.724 of 2013 before the District Munsif, Salem, for permanent injunction, against the petitioner and others, which is pending. Stating that since the respondents 3 and 4 have crossed the age of 25 years, they are not eligible to claim any share in the family pension; and the petitioner alone is entitled to receive the pension and other benefits on the death of the deceased employee, according to the nomination form submitted by him; and the suit filed by the respondents 3 and 4 is not maintainable, a detailed representation was submitted on 10.03.2014 to the respondents 1 and 2 for disbursal of DCRG and pensionary benefits to the petitioner. Finding no response on the said representation, the present writ petition came to be filed by the petitioner.

4.Upon notice, a counter affidavit was filed by the respondents 3 and 4, denying the averments made by the petitioner in the writ petition. According to them, they have crossed the age of 25 years, is factually incorrect; and the claim of the petitioner that she alone is entitled to receive the family pension, is unsustainable. The respondents 3 and 4 further stated that they are daughter and son of the deceased employee and hence, they are also entitled to claim share in the benefits payable. Thus, they prayed for dismissal of this writ petition.

5.When the matter was taken up for consideration, the learned counsel for the petitioner submitted that it would suffice, if the petitioner's representation dated 10.03.2014 is directed to be considered by the respondent authorities, on merits and as per law, within a time frame to be stipulated by this Court.

6.There is no serious objection on the side of the respondents, for granting such relief to the petitioner.

7.Considering the limited relief now sought by the learned

counsel for the petitioner, which has not been seriously opposed on the side of the respondents, this Court, without going into the merits of the case, directs the respondent authorities to consider the representation of the petitioner dated 10.03.2014, if not already considered and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner as well as the respondents 3 and 4. Such an exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vrc
To

1. The Deputy Director of Ex-serviceman Welfare,
Salem - 636 001.
2. The Principal Accountant General (A&E),
Tamilnadu, Chennai - 600 018.

+1 cc to M/s.D.Sivakumaran, Advocate Sr.No. 860
+1 cc to M/s.M.Ravi, Advocate Sr.No. 1214
+1 cc to The Government Pleader Sr.No. 1214

W.P.No.12899 of 2014

VGII (CO)
RMP (04/03/2021)

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