



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.7982 of 2021

and W.M.P(MD)No.6099 of 2021

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... Petitioner

vs.

1.The Branch Officer,

Office of the Principal Accountant General (A & E),
361, Anna Salai,
Chennai - 600 018.

2.The Joint Director of Fisheries,

Thoothukudi District,
Thoothukudi.

3.The Assistant Director of Fisheries,

Thoothukudi District,
Thoothukudi.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in connection with the impugned order passed by him vide proceedings in Letter No.P06/2/10623745/ADK, dated 26.02.2021 as well as third respondent proceedings in Na.Ka.No.16/A1/2012, dated 31.03.2021, quashing both illegal and arbitrary and consequently direct them to sanction her and her daughter the family pension of her deceased husband based on the Legal Heir Certificate issued by the Tahsildar, Thoothukudi District and the Birth Certificate issued by the Local Administration Department, Thoothukudi Municipality and also all retirement benefits of her deceased husband within the time limit stipulated by this Court.

For Petitioner

: Mr.M.Pandian

For R - 1

: Mr.P.Gunasekaran

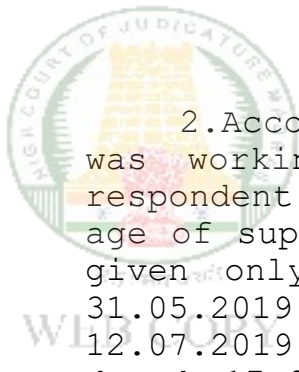
For RR 2 & 3

: Mr.P.Subbaraj

Government Advocate

ORDER

The petitioner filed this Writ Petition to quash the impugned order passed by the first respondent, dated 26.02.2021, as well as third respondent, dated 31.03.2021 and for a direction to sanction her and her daughter the family pension of her deceased husband based on the Legal Heir Certificate issued by the Tahsildar, Thoothukudi District and the Birth Certificate issued by the Local Administration Department, Thoothukudi Municipality and also all retirement benefits of her deceased husband.



2. According to the petitioner, her husband viz., K.Meganathan, was working as Superintendent under the control of the third respondent. He was permitted to retire from service on attaining the age of superannuation on 31.10.2012 with certain conditions. He was given only temporary pension for the period from 01.11.2012 to 31.05.2019. While so, the petitioner's husband-K.Meganathan died on 12.07.2019. The petitioner's daughter-Bhavani made a representation, dated 17.07.2019 to the respondents informing the death of her father and for sanction of family pension to them. As per the instructions of the respondents, the petitioner produced Death Certificate of her husband-K.Meganathan and Legal Heir Ship Certificate, wherein the petitioner, her daughter and her mother-in-law, namely Rajammal, were shown as legal heirs of the deceased employee-K.Meganathan.

3. Further, according to the petitioner, she is the second wife of the employee-K.Meganathan and married to him in the year 2007. The first wife-Selvi left her husband in the year 1996 and she died on 01.04.2006, without issues. Subsequently, her mother-in-law/Rajammal also died on 20.11.2020. The petitioner produced the Death Certificate of the first wife and also her mother-in-law. The third respondent recommended to record the petitioner and her daughter to receive family pension. The first respondent directed the petitioner to produce the Legal Heirship Certificate of the first wife and the proof of marriage between the petitioner and her husband. Challenging the said order, the petitioner has come out with the present Writ Petition.

4. Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the first respondent and the learned Government Advocate appearing for the respondents 2 and 3.

5. From the materials available on record which has been placed before this Court, it is seen that the petitioner married the employee-K.Meganathan in the year 2007, after the death of the first wife in the year 2006. The petitioner has produced the Death Certificate of the first wife, who died on 01.04.2006 as well as mother-in-law of the petitioner, who died on 20.11.2020. She has also produced the Legal Heirship Certificate issued by the competent Revenue Authority showing the petitioner, her daughter and mother-in-law are the legal heirs of the deceased employee-K.Meganathan. The first respondent erroneously called upon the petitioner to produce the Legal Heirship Certificate of the first wife of the employee-K.Meganathan. It is the case of the petitioner that the first wife left her husband in the year 1996 and died on 01.04.2006. She got married to the employee-K.Meganathan in the year 2007 and in the wedlock, daughter Bhavani born. The employee-K.Meganathan died on 12.07.2019. The petitioner and the employee-Meganathan lived as husband and wife for a long time and had cohabitation. This shows that they lived as husband and wife from the year 2007. It is not



the case of the first wife that any other claim was received, claiming family pension in respect of the employee-K.Meganathan.

6.For the above reasons, the impugned order is set aside and the first respondent is directed to consider the representation of the petitioner, dated 11.01.2021 for granting of family pension taking into consideration the documents produced by the petitioner and grant family pension to the petitioner from the date of death of the employee-K.Meganathan and pay arrears and continue to pay every month.

7.With the above direction, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Branch Officer,
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361, Anna Salai,
Chennai - 600 018.

2.The Joint Director of Fisheries,
Thoothukudi District,
Thoothukudi.

3.The Assistant Director of Fisheries,
Thoothukudi District,
Thoothukudi.

+1 CC to M/s.M.PANDIAN, Advocate (SR-19326[F] dated 15/06/2021)

+1 CC to M/s.SPL GP (SR-19419[F] dated 16/06/2021)

W.P (MD) No.7982 of 2021
15.06.2021

KB(25.06.2021) 3P 6C