



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.6999 of 2019

and

W.M.P(MD)No.5580 of 2019

WEB COPY

Tmt.Suriyakala

... Petitioner

vs.

1.The Principal Account General
(Accounts and entitlement),
No.36, Anna Salai,
Chennai-600 018.

2.Minor Puja Sivani,
D/o.Late Muneeswaran,
Rep. through her mother and next friend
Mrs.Neelaveni (Inspector of Police),
D.No.15-2-10A, Nehuruji Street,
P.C.Patti, (Palani Chettipatti),
Theni District.
(The second respondent is impleaded
as per the order of this Court,
dated 14.07.2021 made in
W.M.P (MD)No.8946/2021)

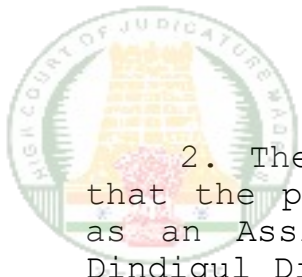
... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned communication issued by the first respondent in his remarks in admissibility report PPO No.FO425195, dated 18.12.2018, and quash the same and further direct the first respondent herein to disburse the family pension to the petitioner as per the award, dated 09.09.2017 passed by the Lok Adalat held by the District Legal Services Authority, Dindigul.

For Petitioner	: Mr.S.Sarvagan Prabhu
For R - 1	: Mr.P.Gunasekaran
For R-2	: Mr.M.Ramesh

ORDER

This Writ Petition is filed to quash the communication of the first respondent in his remarks in admissibility report PPO No.FO425195, dated 18.12.2018, and direct the first respondent herein to disburse the family pension to the petitioner as per the award, dated 09.09.2017 passed by the Lok Adalat held by the District Legal Services Authority, Dindigul.



2. The learned counsel appearing for the petitioner submitted that the petitioner is a wife of Late.Muneeswaran, who was working as an Assistant in the office of the Superintendent of Police, Dindigul District. Her husband committed suicide on 06.11.2014. The name of the petitioner and her children are recorded as legal heirs in the service register of her husband. After the death of her husband, there was a dispute to receive the death-cum-pensionary benefits of her husband between the petitioner and one Neelaveni, who is the second wife of her husband Muneeswaran. Subsequently, a settlement was arrived at between the petitioner and the said Neelaveni, whereby, they agreed to share the terminal benefits equally and the said Neelaveni, who is the second wife of the deceased, gave no objection for family pension to be paid in full to the petitioner. As per the no objection given by Neelaveni, the Office of the Superintendent of Police, Dindigul, sent a proposal to the first respondent for sanctioning of family pension to the petitioner. While so, the first respondent passed the impugned order stating that if a Government servant is survived by two wives, 50% of the family pension is payable to the first wife and remaining 50% of the family pension to be paid to the children born through the second wife and authorized to pay 50% of the family pension to the petitioner and remaining 50% will be authorized to Ms.Puja Sivani, the daughter of the second wife, on receipt of relaxation order along with proposals. Challenging the said order, the petitioner has come out with the present writ petition.

3. The learned counsel appearing for the petitioner submitted that the second wife is working as a Inspector of Police and she has independent income. She has given no objection for being paid full family pension to the petitioner. In the meantime, this Court by order, dated 02.07.2021, directed the petitioner to implead the daughter of the second wife, namely, Puja Sivani as a second respondent in the present writ petition. The petitioner filed W.M.P (MD)No.8746 of 2021 to implead Puja Sivani, the daughter of the second wife Neelaveni. The second wife represented for her minor daughter filed an affidavit. In the affidavit, she has stated that she is working as Inspector of Police and she has sufficient means to support and bring up her daughter Puja Sivani. She also stated that the petitioner is unemployed with two minor children and the said Neelaveni, who is the second wife of the deceased, has no objection to pay the full family pension to the petitioner. As per the direction of this Court, the second wife Neelaveni appeared before this Court today (14.07.2021) through Video Conferencing. Her counsel identified the said Neelaveni as a mother of the second respondent Puja Sivani. The mother of the Puja Sivani reiterated the averments made in the affidavit and confirmed that she has no objection for receiving the full family pension by the petitioner.

4. Mr.P.Gunasekaran, learned counsel appearing for the first respondent submitted that the impugned order of the first respondent



reveals that the petitioner is entitled to 50% of the family pension payable and minor children of the second wife is also entitled to 50% of the family pension and prayed for dismissal of the writ petition. He relied on the judgment of the Principal Seat of this Court in W.P.No.11228 of 2004, dated 02.04.2008, [R.Dhanalakshmi vs. The Secretary to Government, Labour and Employment Department and others]. The relevant portion of the said judgment is extracted hereunder:-

"9. The said agreement was filed before the District Munsif Court for passing appropriate decree. But before the District Munsif Court, the official respondents were given up and the private arrangement between the petitioner and fifth respondent was the basis for decreeing the suit. Such a decree will not bind on the official respondents. In any event, we do not find anything illegality or irregularity in the order passed by the Tribunal and it is perfectly in accordance with the right of the parties as provided under the Tamil Nadu Pension Rules, 1978. If the parties are having any private arrangement, it is for them to work out their rights in terms of their private arrangement and certainly, the State cannot be bound by such arrangements made de hors the Rules."

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent and the learned counsel for the second respondent and Mrs.Neelaveni, who is the mother of the second respondent and perused the materials available on record.

6. From the materials available on record and the contention of the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent and the learned counsel for the second respondent and mother of the second respondent, it is seen that the petitioner is the first wife of the deceased Muneeswaran, who was a Government Employee. The petitioner was recorded as a person entitled to receive all the terminal benefits. It is also seen that the deceased employee during his life time married Neelaveni and in the wedlock, the second respondent viz., Puja Sivani was born. The parties produced the records to show that the said Neelaveni has given no objection for the petitioner to receive the full family pension. The Superintendent of Police Office, Dindigul, sent a proposal to the first respondent. The first respondent has not authorised the full pension to the petitioner.

7. It is seen from the above materials that the petitioner is unemployed with two minor children. On the other hand, the mother of the second respondent Neelaveni is employed as Inspector of Police and filed an affidavit and represented before this Court that she had sufficient means to support and bring her minor children, one second respondent herein.



8. Considering the above facts, especially, 50% of the terminal benefits, paid to the minor daughter through second wife Neelaveni, economical and financial position of the petitioner, no objection given by the second respondent minor daughter through her mother, it will be in the interest of justice, this Court directs the first respondent to authorise and pay full family pension to the petitioner and also arrears of family pension from the date of death of the employee. In view of the above, the impugned order of the first respondent, dated 18.12.2018 is quashed insofar as not authorising the full family pension to the petitioner is concerned.

9. In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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,

The Principal Account General
(Accounts and entitlement),
No.36, Anna Salai,
Chennai-600 018.

Copy to:-

The Superintendent of Police, Dindigul.

+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-22571[F] dated 14/07/2021)

W.P(MD)No.6999 of 2019

14.07.2021

RD(3.08.2021) 4P 4C