



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:01.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

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W.P. (MD)No.22787 of 2016

G.R.Asmitha

...Petitioner

Vs.

- 1.The State of Tamil Nadu
represented by its Secretary to Government,
Finance (Pension) Department,
Fort St. George, Chennai -9.
- 2.The Principal Accountant General, (Accounts & Entitlements),
No.261, Anna Salai, Chennai - 18.
- 3.The Treasury Officer, Sub Treasury,
Palani, Dindigul District.

...Respondents

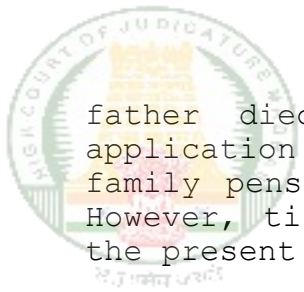
Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the third respondent to consider the petitioner's application dated 23.10.2015 and representation dated 7.10.2016 to disburse the family pension, Tamil Nadu Government Pensioners' Family Security Fund of Rs.50,000/- and other benefits payable on the death of the petitioner's junior grandfather (R.Venkatasamy) with effect from 21.09.2015 with interest to the petitioner.

For Petitioner	:Mr.P.Mani Anandh
For R1 & R3	:Mr.M.Muthugeethayan Special Government Pleader
For R2	:Mr.P.Gunasekaran

ORDER

This writ petition has been filed for a direction to the third respondent to consider the petitioner's application dated 23.10.2015 and representation dated 7.10.2016, to disburse the family pension, Tamil Nadu Government Pensioners' Family Security Fund of Rs.50,000/- and other benefits payable on the death of the petitioner's junior grandfather (R.Venkatasamy) with effect from 21.09.2015, with interest to the petitioner.

2. The case of the petitioner is that her junior grandfather viz., R.Venkatasamy was working as Junior Assistant in Oddanchatram Town Panchayat, Dindigul District. He had no issues. The petitioner's paternal grandfather and the above said R.Venkatasamy are brothers. Since her junior grandfather did not have any issues, he formally adopted the petitioner as his grand daughter. On 31.07.1994, the petitioner's junior grandfather retired from service. Thereafter, he was drawing pension from 01.08.1994 onwards. At this juncture, on 03.09.2013, he appointed the petitioner as his nominee in the service record, which is being maintained in the third respondent's office to receive family pension and other benefits. In these circumstances, on 21.09.2015, her junior grand



father died. Therefore, on 23.10.2015, the petitioner has made an application before the third respondent, requesting him to disburse family pension payable on the death of her junior grand father to her. However, till date no order was passed. Hence, the petitioner has filed the present writ petition with the aforesaid prayer.

3. Heard the learned counsel for the petitioner, learned Special Government Pleader appearing for the respondents 1 and 3, learned counsel appearing for the third respondent and perused the materials available on record.

4. The issue involved in the present writ petition is no longer *intergra* and it is covered by the Pension Rules. Rule 49 (6) of the Tamil Nadu Pension Rules, 1978, is as follows:

(6) The period for which family pension is payable shall be as follows :-

(i) in the case of widow or widower, up to the date of death or remarriage, whichever is earlier ;

(ii) in the case of a son, until he attains the age of [twenty one years] [twenty-five years]; and

(iii) in the case of an unmarried daughter, until she attains the age of [twenty-four years] [thirty years] [twenty five years] or until she gets married whichever is earlier:

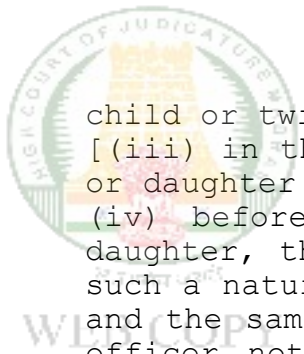
[Provided that if the son or daughter of a Government servant including the son or daughter, born after retirement from the marriage solemnized before or after retirement of a Government servant, is suffering from any disorder or disability of mind [including mentally retarded] or is physically crippled or disabled, whether such handicap manifests before or after retirement or death while in service of a Government servant, so as to render him or her unable to earn a living] even after attaining the age of 18 years [21 years] [25 years] in the case of the son and [24 years] [30 years] [25 years] in the case of the daughter, the family pension shall be payable to such son or daughter for life subject to the following conditions, namely:-

(i) if such son or daughter is one among two or more children of the Government servant, the family pension shall be initially payable to the minor children in the order set out in clause (iii) of sub-rule (8) until the last minor child attains the age of 21 or [24] [30], as the case may be, [the age of 25] and thereafter the family pension shall be resumed in favour of the son or daughter suffering from disorder or disability of mind including mentally retarded or who is physically crippled or disabled and shall be payable to him / her for life.

[(ii) if there are more than one such son or daughter suffering from disorder or disability of mind [including mentally retarded] or who are physically crippled or disabled, the family pension shall be paid -

(a) in the order of their birth, irrespective of the sex of the child and the immediate younger of him or her will be eligible for family pension only after the elder above him or her becomes ineligible for family pension;

(b) in cases of twin children to such twin children in equal shares. In the event of any of such children ceasing to be eligible for family pension his or her share of family pension will become payable to the other such child and when both such children become ineligible for family pension, the family pension will become payable to the next eligible



child or twin children, as the case may be;]

[(iii) in the case of minor, the family pension shall be paid to such son or daughter through the guardian];

(iv) before allowing the family pension for life to any such son or daughter, the sanctioning authority shall satisfy that the handicap is of such a nature as to prevent him or her from earning his or her livelihood and the same shall be evidenced by a certificate obtained from a medical officer not below the rank of a Civil Surgeon setting out, as far as possible, the exact mental or physical condition of the child.

[(v) the person receiving the family pension as guardian of such son or daughter shall produce every three years a certificate from a medical officer not below the rank of a Civil Surgeon to the effect that he or she continues to suffer from disorder or disability of mind [including mentally retarded] or continues to be physically crippled or disabled.

(vi) such daughter shall not be eligible for family pension from the date on which she gets married.

(vii) the family pension payable to such son or daughter shall be stopped if he or she starts earning his (or) her livelihood.

(viii) it shall be the duty of the guardian of such son or daughter to furnish every month to the Treasury or Bank, as the case may be, a certificate to the effect that he or she has not started earning his or her livelihood; and in the case of such daughter that she has not yet married.]

[(ix) in the case of mentally retarded son or daughter, the family pension shall be payable to a person nominated by the Government servant or the pensioner, as the case may be, and in case no such nomination has been furnished to the Head of Office by such Government servant or pensioner during his life time, to the person nominated by the spouse of such Government servant or family pensioner, as the case may be, later on.]

5. A perusal of the above said Rule reveals that the grand junior daughter relationship was not included in the above said Rule. In the absence of any Rule for providing pension to the petitioner, this Court cannot issue any such direction to the respondents to pay pension to the petitioner. Hence, this writ petition is misconceived. Accordingly, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (W)

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Sub Assistant Registrar(CS)

To:

- 1.The Secretary to Government,
State of Tamil Nadu, Finance (Pension) Department,
Fort St. George, Chennai -9.
- 2.The Principal Accountant General, (Accounts & Entitlement),
No.261, Anna Salai,
Chennai - 18.



3.The Treasury Officer, Sub Treasury,
Palani, Dindigul District.

+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-7738[F] dated 01/03/2021)

+1 CC to M/s.P.MANI ANANDH, Advocate (SR-8094[F] dated 02/03/2021)

+1 CC to M/s.SPL GP (SR-8164[F] dated 02/03/2021)

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