



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2022

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.3624 of 2022

K.Salammal

... Petitioner

Vs.

1. The State of Tamil Nadu,
represented by its Principal Secretary,
Highways Department,
Fort St.George,
Chennai - 600 009.

2. The Divisional Engineer,
Highways Department,
Krishnagiri,
Krishnagiri District.

3.Jamuna

... Respondents

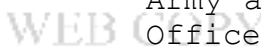
PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to consider the representation of the petitioner dated 03.02.2022 in accordance with law by relaxing the pension rules as far as the petitioner is concerned and on humane consideration, the family pension benefit of deceased Kannan may be granted in favour of the petitioner to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu

For R1 & R2 : Mr.M.Bindran,
Additional Government Pleader

O R D E R

The relief sought for in the writ petition is for a Mandamus, to direct the first respondent to consider the representation of the petitioner dated 03.02.2022 in accordance with law by relaxing the pension rules as far as the petitioner is concerned and on humane consideration, the family pension benefit of deceased Kannan may be granted in favour of the petitioner.



2. Brief facts of the case:

The petitioner got married to one Kannan, who was working in Army and getting pension. After retiring from Army, he joined as Office Assistant (OA) in the First Respondent Department. Due to natural cause the said Kannan died on 06.03.2007 and entire service benefits were given to the third respondent/wife of the deceased viz., Jamuna. Hence, the petitioner to survive and maintain herself, she has filed a suit in O.S.No.299 of 2013 for maintenance from the estate of deceased husband viz., Kannan and the said suit was referred to Lok Adalat and before the Lok Adalat and both the parties were present before the Lok Adalat and the defendant Jamuna also appeared and filed an affidavit that on Sympathy and maintenance, the family pension in the first respondent department may be given pension to the petitioner. On the above said compromise, judgment and decree passed by Lok Adalat, by stating that the plaintiff Salammal may got pension from the Highways Department as it is a compromise decree before Lok Adalat and the said decree could be implemented, but the same was not obeyed. Therefore, the petitioner has submitted a representation to the first and second respondents on 03.02.2022 but the same has not been considered. Hence, the writ petition.

3.The learned counsel appearing for the petitioner would submit that there was a compromise arrived between the petitioner and the third respondent to get pension from the first respondent department to maintain the petitioner herself and to that extent the third respondent has also filed an affidavit before the Lok Adalat, but the same has not been complied with. But exemption to be obtained from first respondent relaxing the rule. Further, as per the recommending letter in Na.Ka.No.109/2021/A1, dated 29.07.2021 to relax the pension rules to be liberally considered and judgement and decree of Lok Adalat passed in La.B.No.49/2007, dated 08.07.2017 to be obeyed by relaxing the rules. The petitioner has also submitted her representation to first and second respondent on 03.02.2022 but the same has not been considered. Further, she would submit that the act of the first respondent not considering the letter dated 29.07.2021 of the second respondent herein including the representation of the petitioner dated 03.02.2022, is unjust and illegal.

4.The learned Additional Government Pleader appearing for the respondents have filed a counter affidavit by stating that one C.Kannan, who had worked as office Assistant in Highways and retired from service on 30.04.2001 and later died on 06.03.2007. On perusal of the service records related to the deceased, it was found that he married one K.Salammal while the first



marriage with D.Jamuna was in existence and hence, as per Tamil Nadu Pension Rules the first wife/third respondent herein is entitled to receive family pension. Further, based on mutual agreement between K.Salammal and D.Jamuna, the Lok Adalat Court, Krishnagiri, has passed an order dated 08.04.2017 in its proceedings LA.B.No.49/2017 by stating that the petitioner is entitled to get family pension from the Highways Department. Thereafter, a detailed proposal was sent to the office of Principle Accountant General and the same was returned for want of relaxation in Tamil Nadu Pension rules as well as the particulars in respect of military FR/A certificate from the Defence authority. Further, along with due clarification from the parties, yet another proposal for relaxing the rule was sent to the Director General, Highways, Chennai, on 27.08.2021 and the same is pending for necessary action. Further, it is stated that regarding the pension benefits the petitioner has submitted an application through the Secretary, Highways & Minor ports, Chennai and copy forwarded to Divisional Engineer (H) C & M, Krishnagiri and after receiving instruction from the Government further action will be taken. Further, the learned Additional Government Pleader has stated that it will take four months time to consider the petitioner's pension proposal and to take final decision by the Government.

5.Heard the learned counsel on either side and perused the materials placed on record.

6.In view of the above facts and circumstances of the case and the submissions made by the learned Additional Government Pleader, this Court is inclined to direct the first respondent to consider the petitioner's pension proposal and to take appropriate decision in accordance with law as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this order and final decision shall be communicated to the petitioner.

7.With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Dua



To

1. The Principal Secretary,
State of Tamil Nadu,
Highways Department,
Fort St.George, Chennai - 600 009.

2. The Divisional Engineer,
Highways Department,
Krishnagiri, Krishnagiri District.

+lcc to Mr.R.Sankarasubbu, Advocate, S.R.No.22430

+lcc to the Government Pleader, S.R.No.22254

W.P.No.3624 of 2022

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NSK 22/04/2022