



WP No.11508 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-11-2022

CORAM

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**

**WP No.11508 of 2019**

Mrs.Mary

..

Petitioner

VS.

- 1.The Director,  
Scheduled Tribe Welfare Department,  
Triplicane,  
Chennai-600 005.
- 2.The District SC/ST Welfare Officer,  
SC/St Welfare Office,  
Villupuram District,  
Villupuram.
- 3.The Headmaster,  
Government Boys' Higher Secondary School  
for Adhidravida and Tribes,  
Kudiyannallur,  
Villupuram District.

4.Mr.G.Duraisamy

5.Mrs.Chellammal

..

Respondents

1/6



WP No.11508 of 2019

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Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the third respondent to consider the representation given by the petitioner dated 27.02.2019, which was given for taking action against the petitioner's husband viz., Duraisamy, fourth respondent herein and to restore the petitioner's name in his service records.

|                         |                                           |
|-------------------------|-------------------------------------------|
| For Petitioner          | : Mr.R.Prabudoss                          |
| For Respondents-2 and 3 | : Mr.M.Muthusamy,<br>Government Advocate. |
| For Respondent-4        | : Mr.G.Sankaran                           |
| For Respondent-5        | : No Appearance                           |

### **O R D E R**

The relief sought for in the present writ petition is to direct the third respondent to consider the representation submitted by the petitioner on 27.02.2019.



WP No.11508 of 2019

2. The representation submitted by the writ petitioner to the third respondent on 27.02.2019 reveals that she is the legally wedded first wife of the fourth respondent-employee, who is employed as Office Assistant in the Department of Adhi Dravidar and Tribal Welfare. The petitioner further states that her name was entered as Nominee/wife in the Service Records of the fourth respondent-employee.

3. The fourth respondent-employee married the fifth respondent as second wife without obtaining decree of divorce or otherwise from the petitioner, who is the first wife of the fourth respondent. Thus, the name of the fifth respondent entered as Nominee in the Service Records of the fourth respondent-employee, is illegal and therefore, the petitioner made a representation to the third respondent to cancel the nomination of the fifth respondent as Nominee in the Service Records of the fourth respondent.

4. A Government employee contracting the second marriage is misconduct under the Government Servant Conduct Rules.



WP No.11508 of 2019

5. In the present case, the fourth respondent-employee already retired from service.

6. As far as the family pension is concerned, legally wedded spouse alone is eligible for family pension and for pensionary benefits under the Pension Rules in force. Thus the first wife of the fourth respondent-employee is entitled for family pension under the Tamil Nadu Pension Rules.

7. The second marriage if found to be invalid otherwise, then the name of the second wife cannot be entered as Nominee either in the Service Records or in the Pension Records of the fourth respondent-employee.

8. Therefore, the Authorities have to verify the facts and accordingly enter the nomination of the retired fourth respondent-employee as per the Pension Rules in force and accordingly act by following the procedures.



WP No.11508 of 2019

9. With the abovesaid clarifications, the writ petition stands

disposed of. However, there shall be no order as to costs.

**16-11-2022**

Index : Yes/No.

Internet : Yes/No.

Speaking Order/Non-Speaking Order.

Svn

To

- 1.The Director,  
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Chennai-600 005.
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Villupuram District.

**S.M.SUBRAMANIAM, J.**



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WP No.11508 of 2019

Svn

WP 11508 of 2019

16-11-2022