



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 11634 of 2019

K.S.Vijaya

... Petitioner

-vs-

The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai-600 001.

... Respondent

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondent to settle the Petitioner's family pension and consequently pay the family pension arrears from August 2016 as on date.

For Petitioner : Mr. D.Soundar Raj

For Respondent : Mr. M.Palaimuthu, Standing Counsel

O R D E R

Heard Mr. D.Soundar Raj, Learned Counsel for the Petitioner and Mr. M.Palaimuthu, Learned Standing Counsel appearing for the Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. One Srihari, who had retired from the services of the Respondent, was receiving pension regularly till 26.07.2016 when he died. The name of one Dillayammal had been entered as the wife of the said Srihari in the records maintained by the Respondent at the time of his retirement and the said Srihari had intimated her death on 11.04.1996 by letter dated 18.12.2007 along with her death certificate. The Petitioner claims to have married the said Srihari on 01.09.1999 which has been registered and had made a claim for family pension from the Respondent. Since it did not evoke any response, the Petitioner has filed this Writ Petition for directing the Respondent to pay family pension from August 2016 onwards to her.

3. The Respondent has filed Counter-Affidavit dated 14.07.2019



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contending that the said Srihari had not informed his marital status after the death of the said Dillayammal during his lifetime and that the date of birth of the said A.Srihari in the marriage certificate was mentioned as 24.08.1941 but it has been entered as 01.07.1938 in the records of the Respondent.

4. In this context, reference must be made to the decision of the Hon'ble Supreme Court of India in Rameshwari Devi -vs- State of Bihar [(2000) 2 SCC 431] where the legal position has been explicated as follows:-

"13.When there are two claimants to the pensionary benefits of a deceased employee and there is no nomination wherever required the State Government has to hold an inquiry as to the rightful claimant. Disbursement of pension cannot wait till a civil court pronounces upon the respective rights of the parties. That would certainly be a long-drawn affair. The doors of civil courts are always open to any party after and even before a decision is reached by the State Government as to who is entitled to pensionary benefits. Of course, inquiry conducted by the State Government cannot be a sham affair and it could also not be arbitrary. The decision has to be taken in a bona fide, reasonable and rational manner...."

Having regard to the aforesaid legal position, it is incumbent upon the Respondent to conduct enquiry after due notice to the Petitioner regarding the discrepancies by providing an opportunity to her to explain the reasons for the same and depending upon its outcome, a decision would have to be taken as to the entitlement of the family pension claimed by her and communicate its outcome under written acknowledgment. If the Petitioner is entitled for grant of family pension as claimed, it shall be ensured that the eligible amount of arrears of family pension is paid within three months from the date of passing of that order, apart from family pension for future months on the due dates and a report of compliance filed before the Registrar (Judicial) of the Court.

In fine, the Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

gd



To:

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The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai-600 001.

Copy to:

The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

+1cc to Mr.D.Soundar Raj, Advocate, S.R.No.25583

W.P. No. 11634 of 2019

PL (CO)
UMA (15/06/2022)