



W.P.No.12990 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12990 of 2019

L.Sarasu

... Petitioner

Vs.

1. The Director,
Fisheries Department,
Teynampet,
Chennai – 600 006.

2. The Principal,
Fisheries Staff Training Institute,
No.126, R.K.Mutt Road,
Chennai – 600 028.

3. Tmt.Rasammal

4. The Accountant General,
Tamil Nadu.

.. Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, to direct the respondents 1 & 2 to consider the petitioner's representation dated 31.05.2017 and direct the respondents to disburse the full pension with arrears and remaining death benefits of the petitioner's husband deceased R.LOGANATHAN.

For Petitioner : Ms.S.Priyadharshini

For Respondents :
For R1 & R2 : Mr.M.Murali
Government Advocate
For R3 : No Appearance
For R4 : Mr.V.Vijay Shankar
(suo moto impleaded)

ORDER

The relief sought for in the present writ petition is to to direct the respondents 1 & 2 to consider the petitioner's representation dated 31.05.2017 and direct the respondents to disburse the full pension with arrears.

2. The petitioner states her husband Thiru.R.Loganathan, was working as Driver in the office of the second respondent and died on 10.12.2006. The petitioner states that she is legally wedded wife of the



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deceased employee and submitted an application for grant of family pension.

However, full family pension has not been paid to her. The petitioner is receiving 50% of the family pension.

3. The learned Additional Advocate General, appearing on behalf of the first and second respondents contended that 50 % of the family pension is yet to be disbursed and in view of the family dispute, 50 % of the family pension is kept in abeyance.

4. The learned Additional Advocate General, produced the files which would reveal that 50 % of the family pension is withheld, pursuant to the clarification issued by the office of the Accountant General of Tamil Nadu. However, there is misinterpretation of rules with reference to the facts of the present case and on account of the said mistake 50 % of family pension has unnecessarily being kept in abeyance.

5. As per the provisions of the Tamil Nadu Pension Rules, spouse of the deceased employee is entitled for full family pension. Pension cannot be shared, unless the second marriage with the deceased employee was solemnized



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prior to the Hindu Marriage Act. Thus, in the present case, the petitioner, who is the legally wedded wife of the deceased employee is entitled for full family pension as per the Tamil Nadu Pension Rules. Only in the absence of spouse, the family pension is to be sanctioned in favour of the children below the age of 25 years and in accordance with the pension rules in force.

6. In the present case, the petitioner being legally wedded wife of the deceased employee, she is entitled for full family pension and therefore, the respondents are directed to settle the family pension as applicable and in accordance with rules, within a period of eight weeks from the date of receipt of a copy of this order.

7. It is brought to the notice of this Court that, due to the clarifactory letter issued by the office of the Accountant General of Tamil Nadu, the Respondents 1 and 2 are not in a position to release the balance family pension, due to the writ petitioner. Thus, the Accountant General of Tamil Nadu is *suo moto* impled as fourth respondent in the writ petition and they are directed to issue appropriate sanction to the respondents for releasing the balance family pension amounts due to the petitioner.



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8. Mr.V.Vijay Shankar, learned counsel takes notice for the newly impleaded fourth respondent/The Accountant General, Tamil Nadu.

9. The Writ petition stands allowed with the above observations. No costs.

02.12.2022

Index:Yes/No
Speaking order/Non-speaking order
rgm/mrn



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To

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S.M.SUBRAMANIAM, J.

rgm/mrn

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