



WEB COPY



W.P.No.30050 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.30050 of 2016
and W.M.P.No.26042 of 2016

N.Sivaraman

... Petitioner

Vs.

1.The Chief Educational Officer,
Educational Department,
C.V. Naidu Salai,
(Near Bank of Baroda),
Tirvallur – 602 001.

2.The Secretary to the Department of Education,
Government of Tamil Nadu,
Fort St. George,
Secretariat, Chennai – 600 009.

3.A.Monica Sri

... Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents 1 to 3 to settle the death benefits of the petitioner's wife G.Kalaiaarasi who had passed away in the course of her service as a Teacher at the Government Girls High School, Manavala Nagar, Tiruvallur and consequently a job to him on compassionate grounds.



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For Petitioner : Mr.D.Ashok Kumar

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader
for R1 & R2

Mr.T.Kabilan for R3

ORDER

The relief sought for in the present writ petition is to direct the respondents 1 to 3 to settle the death benefits of the petitioner's wife G.Kalaiaarasi who had passed away in the course of service as a Teacher at the Government Girls High School, Manavala Nagar, Tiruvallur and consequently, provide him appointment on compassionate grounds.

2.As far as the second relief of compassionate appointment is concerned, the same cannot be granted as the petitioner is now aged about 54 years. Since, he is over aged and appointment cannot be granted. Regarding the terminal and pensionary benefits of the deceased employee is concerned, the learned counsel for the petitioner states that the petitioner is the 2nd husband of the deceased



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employee Smt.G.Kalaiarasi, who was working as a Teacher in the School and died on 25.07.2004.

3.The deceased employee has a daughter viz., Smt.Monica Sri/3rd respondent born from and out of the wedlock between the deceased employee and her first husband. The learned counsel for the petitioner states the name of the 1st husband is Mr.Srinivasan. It is not made clear, the second marriage between the deceased employee and the petitioner's second husband was solemnized during the life time of the first husband or not.

4.That apart, the learned Special Government Pleader made a submission that as per the Service Records, the deceased employee nominated one Mr.Gopalan. The status of the said Gopalan is also not known to the Department. Thus, the dispute in this regard are to be resolved only by the petitioner for the purpose of getting the pensionary benefits in accordance with the pension rules. As per the pension rules, a legally wedded spouse alone is entitled for family pension. The legal heirs are entitled for the other benefits. In the present case, the petitioner claims himself as the 2nd husband of the deceased



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employee. However, the deceased employee nominated the name of Mr.Gopalan and interestingly, the petitioner states that the first husband of the deceased employee was one Mr.Srinivasan. When the facts regarding the matrimonial life of the deceased employee is complex in nature, the petitioner has to establish his case by approaching the competent court of law. He has to establish that he is the legally wedded husband of the deceased employee and only by impleading all the necessary parties and thereafter, claim the service benefits of the deceased employee.

5.High Court cannot conduct an adjudication of since disputed issue in a writ proceedings under Article 226 of the Constitution of India. Such complex nature of disputed issues relating to family disputes are to be adjudicated with reference to the original documents and evidences including oral evidence. Thus, an adjudication is required for the purpose of crystallizing the rights of the persons who all are claiming the benefits. This being the factum, the petitioner is at liberty to approach the competent court of law for the purpose of resolving the disputed issue for the purpose of claiming the service benefits.



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6. With this liberty, this writ petition stands disposed of. No Costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes
Internet : Yes
Speaking order
ssr

To

1. The Chief Educational Officer,
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(Near Bank of Baroda),
Tirvallur – 602 001.
2. The Secretary to the Department of Education,
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S.M.SUBRAMANIAM, J.

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