

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

CORAM

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

**W.P. No. 34863 of 2016
and
W.M.P. No. 30028 of 2016**

S.Muthukumaran

... Petitioner

-vs-

1. State of Tamil Nadu Rep. by its Secretary
Finance (Pension) Department
Fort St. George
Chennai – 600 009.

2. The Treasury Officer
Thanjavur
Thanjavur District.

3. The District Collector
Thanjavur District
Thanjavur.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records relating to the order passed by the Second Respondent in Ka.Mu.700-2016-Em.Ema1, dated 18.08.2016 and quash the same.

For Petitioner : Mr. V.Paul Panneer Selvam

For Respondents : Mr. P.Balathandayutham
Special Government Pleader

ORDER

Heard Mr. V.Paul Panneer Selvam, Learned Counsel for the Petitioner and Mr. P.Balathandayutham, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The wife of the Petitioner, viz., G.Kamalachana, who was working as Secondary Grade Teacher in Panchayat Union Elementary School, Ammaiyappan West, Koradacherry Block, Tiruvarur District, had died in an accident on 06.11.2002 and thereafter, the Petitioner was receiving family pension under the Tamil Nadu Pension Rules, 1978. The Second Respondent by Order No. Ka. Mu. 700-2016-M-Ama 1 dated 18.08.2016 informed the Petitioner that as he got re-married to one Krishnaveni, he would not be entitled to receive family pension from that date and has to refund the family pension amount paid to him from the date of re-marriage, which is challenged in this Writ Petition.

3. Learned Counsel for the Petitioner contends that the impugned order is passed without any prior notice to the Petitioner, which is in violation of the

principles of natural justice and even if its assumed to be true that he got re-married and was not entitled to family pension, the child born to him, viz., Sivasangari, through the deceased G.Kamalochana is under his care and would be entitled to receive family pension.

4. There is substantial force in the said contention as it is evident that the said aspects of the matter had not been taken into account while passing the impugned order. In such circumstances, the impugned order No. Ka.Mu.700-2016-M-M dated 18.08.2016 passed by the Second Respondent is set aside and the concerned authority after issuing show cause notice to the Petitioner and his daughter, viz., Sivasangari, and affording full opportunity of personal hearing to them shall pass reasoned order dealing with each of the contentions that may be raised by them on merits in accordance with law and communicate the decision taken under written acknowledgment.

5. In fine, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

05.07.2022

Maya

Index: Yes/No

Note: Issue order copy by 22.07.2022.

To

1. The Secretary
Finance (Pension) Department
Fort St. George
Chennai – 600 009.
2. The Treasury Officer
Thanjavur
Thanjavur District.
3. The District Collector
Thanjavur District
Thanjavur.

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P.D. AUDIKESAVALU, J.

Maya

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