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W.P.No. 37380 of 2016



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 37380 of 2016

C. Singari

... Petitioner

Vs.

1. The Principal Accountant General, A& E,
No. 361, Anna Salai, Teynampet,
Chennai – 600 018.

2. The Tamil Nadu Forest Department,
Mr. K. Asokan B.Sc.,
Deputy Conservator of Forests (I/C)
State Forestry Research Institute,
Chennai – 127.

... Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent herein to pay the family pension as per the Lr.No.633/15/E dated 23.12.2015 of the second respondent with effect from the date of death of the petitioner's husband, i.e., 06.02.2014.

For Petitioner

: Mr. P. Ganesan
for Mr. V.P. Premalatha

For Respondents

: Mr. S. Mahesh
for Mr. V. Vijay Shankar
for R1
Mr. V. Jeeva Giridharan
Additional Government Pleader
for R2



ORDER

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The relief sought for in the present writ petition is to direct the first respondent herein to pay the family pension to the petitioner.

2. The petitioner states that she got married to one Mr. P. Chinnadurai on 23.01.1995, as per Hindu rites and customs. The husband of the writ petitioner was an employee in the forest department. The petitioner herself has stated that she is the second wife of the deceased employee, Mr. P. Chinnadurai. Her husband married one Tmt. Baskari, as first wife and she states that her husband got divorced from his first wife. The whereabouts of the first wife is not known to the husband of the writ petitioner and the husband of the writ petitioner was allowed to retire from service voluntarily from service on 30.04.2005. On the background of the above facts, the petitioner submitted an application for grant of family pension and the authorities have not considered the same. Thus, the petitioner is constrained to move the present writ petition.



3. The first respondent Principal Accountant General has objected the contention by stating that the husband of the writ petitioner late P. Chinnadurai served as Forester in the forest department and retired from service voluntarily on 30.04.2005. In his service register, the deceased employee had nominated his first wife Smt. Baskari, as his wife. However, further nomination dated 17.09.2003 reveals that the name of the writ petitioner Smt. K. Singari has been registered. An ambiguity arose in respect of the legality of marriage between the deceased employee and the writ petitioner/second wife. A single pension payment order was issued in favour of the deceased on 07.11.2005. Thus, the first respondent was not in a position to consider the case of the writ petitioner for grant of family pension.

4. The learned Additional Government Pleader, appearing on behalf of the second respondent, made a submission, that there is a dispute regarding the validity of the marriage between the deceased employee and the writ petitioner. That apart, the writ petitioner herein filed a civil suit in O.S. No. 62 of 2020 on the file of the District Munsif, Arakkonam and during the pendency of the civil suit, the authorities would not be in a position to consider the case of the writ petitioner for grant of family pension.

5. The learned Additional Government Pleader brought to the notice



of this Court that, in the plaint filed in O.S.No. 62 of 2020, the writ petitioner has stated that “as per the customary practice in the presence of local panchayatdar and elders, the marriage between the first wife and the deceased employee was dissolved.” However, in the writ petition, the petitioner has stated that maintenance orders were passed in Miscellaneous petition No. 14 of 90 dated 07.02.1992. Therefore, it is clear that the marriage between the first wife and the deceased employee was not annulled by way of a decree of divorce through the court of law. In other words, the petitioner has not produced any decree of divorce obtained dissolving the marriage between the deceased husband of the petitioner and his first wife Smt. Baskari. Therefore, the second marriage between the petitioner and the deceased employee became invalid. The second wife is not entitled for the family pension. Only if the second marriage is valid in the eye of law, then alone the second wife is eligible for family pension under the Tamil Nadu Pension Rules and not otherwise.

6. In the present case, the petitioner is not able to establish that the marriage between the first wife and her deceased husband was dissolved by way of decree of divorce through competent court of law and therefore the petitioner has no right to claim family pension and therefore there is no



infirmity in respect of the decision taken by the authorities, which is in consonance with the provisions of the pension rules. Consequently, the writ petition stands dismissed. No costs.

04.11.2022

mrn

Index : Yes / No

Speaking order / Non-Speaking order

To

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2. The Tamil Nadu Forest Department,
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S.M.SUBRAMANIAM, J.



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