



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NO.5059 OF 2014

P.Rasammal

... Petitioner

-Vs-

The Commissioner,
Cuddalore Municipality,
Cuddalore-607 001,
Cuddalore Taluk,
Cuddalore District.

... Respondent

Prayer :

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, call for the records, quash the order dated 28.11.2013 passed by the respondent in his Na.Ka.No.12134/2013/B2 and consequently direct the respondent to pay petitioner family pension on the death of Periathambi.

For Petitioner : Mr.R.M.Nasurullah Khan
For Mr.R.Gururaj

For Respondent : No appearance

O R D E R

The writ on hand has been filed to quash the order dated 28.11.2013, passed by the respondent, rejecting the claim of the writ petitioner for grant of family pension.

2. The petitioner states that her husband, Late Mr.Periathambi was employed in Cuddalore Municipality. The petitioner herself has stated that she is the second wife of the deceased employee. One Smt.Kasi Ammal was the first wife of the deceased employee and the first wife Smt.Kasi Ammal was receiving the family pension after the death of her husband Mr.Periathambi and the said Smt.Kasi Ammal also died on 22.03.2013. Thereafter, the petitioner being a second wife,



submitted an application for grant of family pension. The said application was rejected on the ground that the petitioner is not eligible for family pension as per the pension rules in force.

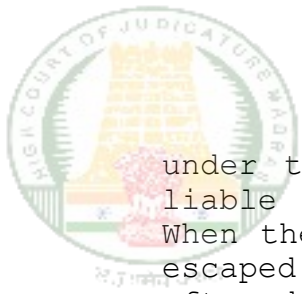
WEB COPY

3. The petitioner states that she is the younger sister of the first wife of the deceased employee, Smt.Kasi Ammal. She has two children born to Mr. Periathambi.

4. However, the learned counsel for the petitioner made a submission that the marriage between the writ petitioner and the deceased employee was solemnized during the lifetime of the first wife Smt.Kasi Ammal. In view of the fact that the said Smt.Kasi Ammal had no issues, the deceased employee married her sister, who is the petitioner. It is further contended that the petitioner submitted the legal heir certificate and the other documents to establish that she is the second wife of the deceased employee and further, established that the first wife of the deceased employee also died.

5. This Court is of the considered opinion that the legal heir certificate issued by the Tahsildar reveals that Smt.Kasi Ammal is the first wife and the writ petitioner/ Rasammal is the second wife. The legal heir certificate was issued based on the information provided by the applicant. However, mentioning of the name of the second wife in the legal heir certificate would not be a proof to establish that the marriage between the deceased employee and the writ petitioner was a valid marriage in accordance with law. When the petitioner herself has stated that the marriage between herself and the deceased employee was solemnized during the lifetime of the first wife, the marriage itself is null-and-void and therefore, the writ petitioner cannot be construed as a legally wedded wife of the deceased employee. This apart, the first wife was sanctioned with the family pension and till her death, she was receiving the family pension. The said factum was not disputed and during the period, in which, the family pension was being disbursed to the first wife was also not disputed or questioned by the writ petitioner. Therefore, question of granting further family pension to the second wife of the deceased employee would not arise at all. Once the second marriage becomes invalid in the eye of law, the second wife is not eligible for family pension in accordance with the Tamil Nadu Pension Rules in force and mere legal heir certificate and the Adhar Card or other documents, showing that the petitioner is the second wife would not be sufficient to sanction family pension to the petitioner in accordance with the Pension Rules.

6. That apart, a Government servant, contracting second marriage during the lifetime of the first wife is the misconduct



under the Tamil Nadu Government Servants Conducts Rules. He is liable to be prosecuted under the Discipline and Appeal Rules. When the second marriage itself is a misconduct and the employee escaped from the clutches of the disciplinary proceedings, and after his death, the second wife is not entitled for family pension as the marriage is not valid in the eye of law.

7. In view of all the facts and circumstances, the writ petitioner has not established any acceptable ground for the purpose of considering the relief as such sought for in the writ petition and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sha/kak

To

The Commissioner,
Cuddalore Municipality,
Cuddalore-607 001,
Cuddalore Taluk,
Cuddalore District.

W.P.No.5059 of 2014

GPL(CO)
PM/16/06/2022