



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NO.5364 OF 2014

AND

M.P.NO.1 OF 2014

S.BALAGURNATHAN,
AS GUARDIAN FOR MENTALLY
DISTORTED
MINOR S.VARADHARAJA PERUMAL.

... PETITIONER

-Vs-

- 1 THE SECRETARY TO GOVERNMENT
FINANCIAL DEPARTMENT (PENSION),
GOVERNMENT OF TAMILNADU,
FORT ST. GEORGE, CHENNAI-9.
- 2 DEPUTY ACCOUNTANT GENERAL (PENSION),
PRINCIPAL ACCOUNTANT GENERAL,
(ACCOUNTS AND ENTITLEMENTS TAMILNADU)
NO.361, ANNA SALAI CHENNAI-18.
- 3 THE TREASURY OFFICER,
TUTICORIN 628 101.
- 4 ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
OTTAPIDRAM TUTICORIN - 628 401

... RESPONDENTS

Prayer :

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings No. Pr.AG(A&E) /Legal Cell/ WP (MD) No.11041/ 2011/2179-202939 dated 26.3.2012 on the file of the 2nd respondent herein and to quash the same and direct the respondents 1 to 3 to revive the pension to the petitioner for S.Varatharaja Perumal a mentally retarded person order in PPO. No.DC/ 542542/EDA referred in the order No.AG (A & E) PEN P22/ 2/ 18- 638/FP/2005-2006/ 6211, 6212, 6213 dated 16.9.2005 followed by the Letter in Rc. No.15647/05/A1 dated 13.10.2005 addressed by the 3rd respondent to the 2nd respondent with effect from 21.3.1998 at all the



rates applicable and revised from time to time as may be fixed by this court.

For Petitioner : Mrs.Elizabeth Ravi
for Mr.P.Raja.

For Respondents: Mr.M.Bindran (for R1)
Additional Government Pleader
Mrs.Hema Murali Krishnan (for R2)

O R D E R

The writ petition is filed questioning the validity of the order dated 26.03.2012, rejecting the claim of the writ petitioner for grant of second family pension to a 100% physically disabled person.

2. The writ petition is filed by the guardian and elder brother of Mr.S.Varadharaja Perumal, who is certified to be a 100% physically disabled person. The father of the petitioner was working as Headmaster in Panchayat Union Elementary School and died on 18.09.1996, while in service and subsequently, the brother of the writ petitioner Shri.S.Varadharaja Perumal who was 100% physically disabled was sanctioned with the family pension and admittedly, the brother of the writ petitioner is receiving family pension as of now.

3. The mother of the writ petitioner Smt.K.Indirani, was a Teacher and retired on attaining the age of superannuation. However, she was died on 09.10.1997, before sanction of pension. The petitioner now claims second family pension on account of the death of his mother Smt.K.Indirani.

4. The learned counsel for the petitioner made a submission that there is no prohibition for grant of second family pension in favour of 100% physically disabled person. When there is no specific restriction for grant of two family pension, the petitioner is entitled for the benefit of family pension on account of the death of his mother Smt.K.Indirani.

5. The learned Additional Government Pleader appearing on behalf of the 4th respondent made a submission that there is no provision to sanction two family pension to the legal heir of the deceased employees. In the present case, family pension was already sanctioned in favour of the physically disabled person, consequent to the death of his father, who was a Headmaster, while in service. The family pension is being received continuously by the writ petitioner on behalf of the physically disabled person. While so, the second family pension cannot be



granted as there is no provision for grant of such second family pension and the said position was clarified by the Government in G.O.Ms.No.327 Finance (Pension) Department dated 30.08.2001. As per the Government Letter No.10544/Finance (Pension) Department dated 13.09.2004, the son/daughter who is in receipt of the family pension of Rs.2550/- or above in respect of one of the parents is not eligible for second family pension. Therefore, the writ petitioner has no locus standii to seek second family pension to his 100% physically disabled brother Mr.S.Varadharaja Perumal, on the death of his mother Smt.K.Indirani, a retired teacher of an aided school.

6. It is contended that the family pension is an income earning for all purposes. In view of the fact that the brother of the writ petitioner, who is disabled is already a family pensioner and receiving family pension continuously, on the death of his father Mr.P.Seeni, there is no provision for grant of second family pension, on the death of his mother, Smt.K.Indirani.

7. This being the policy adopted under the rules, there is no reason to consider the case of the writ petitioner for the grant of second family pension. Accordingly, the writ petitioner is not entitled for the relief and the Writ Petition stands dismissed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ars

To

- 1 THE SECRETARY TO GOVERNMENT
FINANCIAL DEPARTMENT (PENSION),
GOVERNMENT OF TAMILNADU,
FORT ST. GEORGE, CHENNAI-9.
- 2 DEPUTY ACCOUNTANT GENERAL (PENSION),
PRINCIPAL ACCOUNTANT GENERAL,
(ACCOUNTS AND ENTITLEMENTS TAMILNADU)
NO.361, ANNA SALAI CHENNAI-18.



3 THE TREASURY OFFICER,
TUTICORIN 628 101.

4 ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
OTTAPIDRAM TUTICORIN - 628 401.

+1cc to M/s.Hema Murali Krishnan, Advocate, S.R.No.37940
+1cc to Mrs.Elizabeth Ravi, Advocate, S.R.No.38370
+1cc to the Government Pleader, S.R.No.38243

W.P.No.5364 of 2014

SVI (CO)
PM/30/06/2022