

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.19189 OF 2014

J.Kasilingam

... Petitioner

.Vs.

The Superintending Engineer,
Krishnagiri Electricity Distribution Circle,
The Tamil Nadu Generation and
Distribution Corporation Ltd.,
Salem Main Road, Avathanapatti,
Krishnagiri - 2.

... Respondent

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records made in Ka.No.004325/162/Ni.Pi.2/Vu.2/Ko.Oiyvu/2013-1 dated 11.12.2013 passed by the respondent and consequently direct the respondent to enter the name of Mrs.K.Dhanalakshmi as nominee in the pension book of the petitioner for the for the purpose of getting family pension.

For Petitioner : Mr.G.Ananda Kumar

For Respondent : Mr.P.Subramaniam
[For TANGEDCO]

ORDER

The order of rejection dated 11.12.2013, rejecting the claim of the writ petitioner to include the name of his second wife as nominee in Service Records for grant of family pension is under challenge in the present writ petition.

2. The writ petitioner was an employee of TANGEDCO and retired from service on 30.06.2006. Admittedly, the petitioner married one Smt.Vasantha in the year 1965 and she has two sons

and one daughter, out of the wedlock. The said Smt.Vasantha/petitioner's first wife deserted the petitioner in the year 1982. Thereafter, the writ petitioner has married one Smt.Dhanalakshmi as his second wife on 07.10.1985. The second wife has three sons out of their wedlock. The petitioner states that his first wife has not taken any steps for reunion and the second wife of the writ petitioner was taking care of him. The first wife of the writ petitioner Smt.Vasantha died on 15.12.2011 and thereafter, the petitioner made a representation to the 2nd respondent to provide family pension and other benefits to his second wife Smt.Dhanalakshmi by making necessary entries in the pension book of the petitioner. The said claim of the writ petitioner was rejected by the respondents on the ground that the second marriage between the writ petitioner and Smt.Dhanalakshmi was solemnised during the life time of the first wife. Therefore, the second marriage solemnised in the year 1985 was null and void and accordingly, the request of the writ petitioner was rejected.

3. The learned counsel for the petitioner mainly contended that the petitioner's first wife died on 15.12.2011, and after the death of his first wife, the name of second wife is to be included as the nominee for the purpose of family pension.

4. The learned Standing Counsel appearing on behalf of the respondent/TANGEDCO objected the said contention by stating that once the marriage has become null and void, the second wife of the writ petitioner cannot be considered as a legally wedded wife for the purpose of grant of family pension. Therefore, there is no infirmity as such in respect of the reasons stated in the impugned order.

5. This Court is of the considered opinion that as per the pension scheme, spouse of an employee alone is entitled for family pension and other benefits of the family pension. To avail the benefits of family pension, the legality of the marriage is to be established. In other words, a legally wedded wife or husband alone is entitled for family pension under Pension Rules of the TANGEDCO as well as under the Government pension rules. Thus, if the marriage is null and void, then the spouse is not entitled for family pension.

6. In the present case, admittedly, the petitioner and his first wife Smt.Vasantha has three children from and out of their wedlock. The petitioner states that the first wife deserted him in the year 1982 and thereafter, he married his second wife

Smt.Dhanalakshmi. At the time of second marriage, his first wife Smt.Vasantha was very much alive along with her three children and therefore, the petitioner is liable for disciplinary proceedings during the relevant point of time as contracting a second marriage during the life time of the first wife Smt.Vasantha is a misconduct under the Discipline and Appeal Rules and further, an offence of bigamy under the India Penal Code. Neither the employer nor the Courts can encourage the employees for commission of such offences. Whenever such misconducts or offences are brought to the notice of the competent authority, they are bound to initiate all appropriate action. However, in the present case, no action was taken and the petitioner was allowed to retire from service.

7. That apart, considering such invalid claims of second wife for grant of family pension, the same will set a wrong precedent and would affect the officials discipline as per the Conduct Rules applicable to the public servants. Thus, for grant of family pension, spouse has to establish that he/she is a legally wedded wife or husband and only on such factum, the spouse would be entitled for family pension.

8. In the present case, admittedly, the second marriage between the writ petitioner and Smt.Dhanalakshmi was solemnised during the life time of the first wife in the year 1985. Thereafter, the first wife died in the year 2011. This being the factum, the marriage between the writ petitioner and second wife Smt.Dhanalakshmi was null and void in the eye of law and based on an invalid marriage, nominations cannot be permitted nor family pension can be sanctioned by the competent authority and such unjust claims would result in financial loss to the State Exchequer and all such nominations and financial benefits including pensionary benefits and family pensions are granted strictly in accordance with the rules or schemes in force.

9. This being the principles to be followed, the petitioner has not established any acceptable ground for the purpose of considering the relief and accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Jeni/Kak

To

The Superintending Engineer,
Krishnagiri Electricity Distribution Circle,
The Tamil Nadu Generation and
Distribution Corporation Ltd.,
Salem Main Road, Avathanapatti,
Krishnagiri - 2.

+1cc to Mr.P.Subramaniam, Advocate, S.R.No.38377
+1cc to Mr.G.Ananda Kumar, Advocate, S.R.No.38498

W.P.NO.19189 OF 2014

AJS (CO)
PBS/12/07/2022