

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.19424 OF 2014

V.Vediammal

... 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.008987/268/Ni.Pi.2/Vu.2/Ko.Oiyvu/2013 dated 12.12.2013 passed by the respondent and consequently direct the respondent to grant family pension to the petitioner from 01.07.2013 with interest.

For Petitioner : Mr.G.Ananda Kumar

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

ORDER

The relief sought for in the present writ petition is to call for the records made in Ka.No.008987/268/Ni.Pi.2/Vu.2/Ko.Oiyvu/2013 dated 12.12.2013 passed by the respondent and consequently to direct the respondent to grant family pension to the petitioner from 01.07.2013 with interest.

2. The petitioner states that her husband Thiru.Venkatesan was an employee of the respondent/TANGEDCO and retired from service on 30.06.1996. The husband of the petitioner was holding the Post of Senior Grade Helper and died on 15.06.2013.

3. The petitioner states that she married the deceased employee, late Thiru.Venkatesan as second wife on 15.03.1978. The marriage was subsequently registered before the Registrar Office in Registration Certificate Serial Number of Marriage 27 of Year 2007. Even as per the marriage certificate, the marriage between the writ petitioner and the deceased employee was solemnized on 15.03.1978.

4. The learned Standing Counsel appearing on behalf of the respondent/TANGEDCO objected the said contention by stating that the writ petitioner married the deceased employee during the life time of his first wife Smt.Kalaivani. The husband of the writ petitioner married Smt.Kalaivani in the year 1966 and admittedly, the writ petitioner is the second wife of the deceased employee. In view of the fact that the second marriage between the deceased employee and the writ petitioner was solemnized during the lifetime of the first wife, the second marriage is null and void and further, the second marriage itself was registered before the competent authority of the Registration Department and thus, the marriage itself is invalid in the eye of law. 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 is alone 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. 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.

7. In the present case, admittedly, the second marriage between the writ petitioner and the deceased employee was solemnised during the life time of the first wife. This being the factum, the marriage between the writ petitioner and the deceased employee 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.

8. 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(CS IX)

//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.G.Ananda Kumar, Advocate, S.R.No.38499
+1cc to Mr.P.Subramanian, Advocate, S.R.No.38376

W.P.NO.19424 OF 2014

SSD(CO)
PBS/15/07/2022