



W.P.No.22697 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.22697 of 2022

J.Alphonse Leela

.... Petitioner

-Vs-

1.The General Manager
Southern Railway
Park Town, Chennai 600 003.

2.The Chief Workshop Manager
Carriage and Wagon Works
Peramur, Chennai 600 023.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to dispose of the petitioner's representation dated 03.03.2022 and to pay monthly pension under Railway Service (Pension) Rules 1993 and Family Pension Scheme for Railway Servant, 1964 to the applicant with arrears and interest in accordance with law.

For Petitioner : Mr.V.Elangovan

For Respondents : Mr.V.Chandrasekaran
Senior Panel Counsel



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ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondents to dispose of the petitioner's representation dated 03.03.2022 and to pay monthly pension under Railway Service (Pension) Rules 1993 and Family Pension Scheme for Railway Servant, 1964 to the applicant with arrears and interest in accordance with law.

2. The petitioner was a legally wedded wife of one Joseph Ravi, who is an employee of the respondent Railways. The marriage was solemnized between them on 26.01.1978. At some point of time it seems that due to some estranged relationship between the couple, the husband Joseph Ravi seems to have obtained signatures from the petitioner in some papers and filed a case before the Court concerned for getting a divorce decree and this development the petitioner had come to know only belatedly. The reason for such move by the petitioner's husband to get a divorce decree against the petitioner is because that the husband of the petitioner already developed a relationship with a third party one Hemalatha.

3. After coming to know these developments, and in the meanwhile since the said Joseph Ravi / husband of the petitioner expired, in order to get a declaration that the petitioner and her son one Antony Xavier, who was born out of the wedlock between the petitioner and Joseph Ravi, has filed a suit before the concerned Court in



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O.S.No.65 of 2014, where on 31.12.2021 a decree was passed declaring that the petitioner and her son Antony Xavier were the legal heirs of the deceased employee Joseph Ravi.

4. After getting the said decree from the Court concerned, the same was forwarded by the petitioner to the respondent Railway to make corrections in the Service Register of the deceased employee in the column nominees of the petitioner so that the death-cum-retirement-benefits of the deceased employee could be paid to the petitioner and her son.

5. Despite the said representation having been made by the petitioner on 03.03.2022, since the same was not considered and no such action had been taken i.e., execution of the Civil Court decree made in O.S.No.65 of 2014, where the petitioner and her son were declared to be the legal heirs of the deceased employee, the petitioner has approached this Court by filing the present writ petition.

6. Heard Mr.V.Elangovan, learned counsel for the petitioner, who after having reiterated the aforesaid facts, would seek the indulgence of this Court to issue suitable directions to the respondent railway to execute the decree by nominating the petitioner and her son as nominees / legal heirs of the deceased employee in the Service Register so as to enable the petitioner to get the benefits.



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7. Heard Mr.V.Chandrasekaran, learned Senior Panel Counsel appearing for the respondents, who would submit that if the Civil Court decree wherein the petitioner and her son got a declaratory decree has become final as no appeal has been filed, certainly the respondents would consider the same and act upon the basis of such decree and in this regard, the petitioner and her son shall come forward before the Railways to give a written declaration that there is no further appeal filed against the decree in O.S.No.65 of 2014 and it has become final.

8. Having considered the said submissions and with regard to the aforesaid facts and circumstances, this Court is inclined to dispose of this writ petition with the following order.

- That there shall be a direction to the respondent Railways to execute the decree made in O.S.No.65 of 2014 which was obtained by the petitioner and her son in their favour, where the Railway also is one of the party, after getting a declaration in writing from the petitioner and her son that as against the said decree no further appeal has been filed and the decree has become final.



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- Accordingly, the needful as indicated in the said decree shall be undertaken and executed within a period of eight weeks thereafter.
- It is made clear that since the petitioner and her son were declared to be the legal heirs of the deceased employee, that declaration would not take away the right of the third defendant, who was the second wife of the deceased employee, to claim as one of the legal heir and who had already been nominated in the Service Register. Hence the direction indicated herein above shall be complied with by taking into account the claim made by the third defendant in the suit who claims to be second wife of the deceased employee.

9. With the above directions, this writ petition is disposed of. No costs.

01.09.2022

Index : Yes/No
Internet : Yes/No
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To

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R. SURESH KUMAR, J.

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