



W.P.No.1332 of 2019

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 02.11.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**W.P.No.1332 of 2019**

T.Vijayalakshmi

...Petitioner

Vs.

- 1.The Secretary to Government,  
School Education Department,  
Fort St. George,  
Chennai – 600 009.
- 2.The Director of School Education,  
College Road,  
Chennai – 600 006.
- 3.The Chief Educational Officer,  
Salem – 636 001.
- 4.The District Educational Officer,  
Salem – 636 001.
- 5.The Accountant General of Tamil Nadu,  
Chennai – 600 018.
- 6.The Treasury Accounts Officer,  
Salem District, Salem.



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7.Indira

8.Uma

9.Jaya

10.Gita

Respondents

**Prayer :** Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents 1 to 6 to pay to the petitioner the family pension payable to her mother Chellammal, as the widow of K.Thandavan till the death of Chellammal as well as 1/ 5th share of Chellammal in the other benefits like Provident Fund, Gratuity and like benefits as directed by the Principal District Munsif Court, Salem by Judgement dated 02.01.2004 in O.S.No.132/ 2002, together with interest at 18% per annum from 02.01.2004.

For Petitioner : Mr.Leela Raman  
for M/s.T.M.Hariharan

For Respondents : Mrs.S.Mythreye Chandru  
Special Government Pleader  
for R1 to R4 and R6

Mr.V.Murali for R5

Mr.R.Rajarajan for R7 to R10



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### **ORDER**

The writ of mandamus is instituted to direct the respondents 1 to 6 to pay to the petitioner the family pension payable to her mother Chellammal, as the widow of K.Thandavan till the death of Chellammal as well as 1/5th share of Chellammal in the other benefits like Provident Fund, Gratuity and like benefits as directed by the Principal District Munsif Court, Salem by judgment dated 02.01.2004 in O.S.No.132/2002, together with interest at 18 percent per annum from 02.01.2004.

2.The petitioner states that she is a daughter born out of the wedlock between the deceased employee Thandavan and Smt.Chellammal. The deceased employee Thandavan married Smt.Rajeswari as second wife and after the death of the employee of the Thandavan, the dispute arouse within the family and mother of the petitioner Smt.Chellammal along with the petitioner instituted a Civil Suit in O.S.No.131 of 2002 for declaration and permanent injunction.



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3.The Suit decreed in favour of the 1<sup>st</sup> plaintiff who is the mother of the petitioner. However, there is no Decree in favour of the 2<sup>nd</sup> plaintiff who is the writ petitioner before this Court. The plaintiff could not be able to submit any document before the competent Civil Court establishing that she is the daughter born from and out of the wedlock between the deceased employee Thandavan and Smt.Chellammal. Thus, the Civil Court has not passed any Decree in favour of the 2<sup>nd</sup> plaintiff who is the writ petitioner before this Court and the Decree was passed in favour of the mother of the writ petitioner, as she was the first wife of the deceased employee Thandavan. The mother of the writ petitioner Smt.Chellammal also died. Thus, the petitioner filed the present writ petition stating that the arrears of family pension and 1/5<sup>th</sup> share of the other benefits are to be settled in favour of the writ petitioner.

4.The learned Special Government Pleader appearing on behalf of the Department objected the said contention by stating that even as per the Civil Court Decree, petitioner is not entitled for the benefit. The Civil Court has



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categorically ordered that the petitioner cannot be considered as a legal heir of the deceased employee Thandavan and therefore, the arrears of family pension or 1/5<sup>th</sup> share of the other benefits cannot be settled in favour of the writ petitioner. Contrarily, the second wife and her children established that they are the legal heirs of the deceased employee. Thus, the claims set out in the present writ petition deserve no merits consideration.

5.This Court is of the considered opinion that disputed facts cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. The power of judicial review under Article 226 is to ensure the process through which a decision is taken by the competent authorities in consonance with the statutes and rules, but not the decision itself. Therefore, the legal status of a person is to be established before the competent Civil Court of law by submitting documents and evidence in original which all are to be adjudicated by way of trial natured proceedings. In the present case, the petitioner along with her mother filed a Civil Suit and the Civil Court granted Decree in favour of the mother of the writ petitioner. However, the status of



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the writ petitioner as a daughter of the deceased employee was not established before the Civil Court. It is not in dispute regarding the maternity, but the dispute prevails regarding paternity. Thus, the said dispute is to be resolved by approaching the competent Court of law and this Court cannot adjudicate such disputed issues in the present writ petition.

6.In view of the facts and circumstances, the petitioner is not entitled for the relief as such sought for and consequently, the writ petition stands dismissed. No Costs.

**02.11.2022**

Index : Yes  
Internet : Yes  
Speaking order : Yes  
ssr

**To**

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Chennai – 600 009.



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**S.M.SUBRAMANIAM, J.**

SSR

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