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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7001 of 2014

A.Philominal

...Petitioner

Vs.

1.The Chairman

The Tamil Nadu Electricity Board
N.P.K.R.R.Maligai,
No.800, Anna Salai,
Chennai 600 002.

2.The Secretary,

The Tamil Nadu Electricity Board
N.P.K.R.R.Maligai,
No.800, Anna Salai,
Chennai 600 002.

3.The Chief Engineer (Personnel),

The Tamil Nadu Electricity Board,
N.P.K.R.R.Maligai,
No.800, Anna Salai,
Chennai 600 002.

4.Chief Internal Audit Officer,

Board Office Audit Branch,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai 600 002.

5.The Superintendent Engineer,

Kanyakumari Electricity Distribution Circle,
Parvathipuram, Nagercoil 629 003

...Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India praying for an issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the issuance of impugned letter of the 5th Respondent dated 25.09.2012 and quash the same and consequently directing the 5th Respondent to disburse the family pension of Late A.Padmanabhan to the Petitioner.



For Petitioner : Ms.V.Pushpa
For Respondents : Mr.P.Subramanian
Standing Counsel for TANGEDCO

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O R D E R

The order impugned dated 25.09.2012 rejecting the claim of the writ petitioner for grant of family pension is under challenge in this writ petition.

2.The petitioner states that her husband late A.Padmanabhan was working as Foreman, Grade I in the 1st respondent Tamil Nadu Electricity Board. The deceased employee retired from service on 30.09.1988 and his pension was sanctioned. The employee was receiving the pension and subsequently died on 07.09.1993.

3.The petitioner submitted an application for grant of family pension and the respondents rejected the claim of the writ petitioner on the ground that she is the second wife of the deceased employee and the marriage between the writ petitioner and the deceased employee was solemnised during the life time of the first wife and thus, the marriage itself was invalid.

4.The learned counsel for the petitioner contended that the first wife of her husband Smt.Rajammal instituted a suit in O.S.No.34 of 2004, on the file of the Subordinate Court at Kuzhithurai with a prayer for permanent injunction restraining the writ petitioner from alienating or interfering with the properties of the deceased employee. The learned counsel for the petitioner made a submission that the first wife of her husband was unable to establish that she is the first wife.

5.The learned standing counsel for the respondents TANGEDCO objected the said contention by stating that the board is not a party to the Civil Suit. As per the records available, the board could able to arrive at a conclusion that the writ petitioner is the second wife and the said factum is not disputed by the writ petitioner. When the marriage was solemnised between the writ petitioner and the deceased employee during the life time of the first wife, the second marriage is invalid in the eyes of law and therefore, the writ petitioner cannot be construed as a legally wedded wife of the deceased employee and consequently, the claim for family pension was rejected.

6.This Court is of the considered opinion that even in respect of the suit instituted by the first wife, Smt.Rajammal, in O.S.No.34 of 2004, the suit was for permanent injunction to restrict the writ petitioner and other defendants from



alienating or in any manner interfering with the possession of the properties of the deceased employee late A.Padmanabhan. Therefore, the question of establishing the marital status in the said suit would not arise at all. That apart, the writ petitioner herself has admitted the fact that the marriage between the deceased employee and herself was solemnised only in July 1979 and admittedly, the first wife of the deceased employee Smt.Rajammal died during the year 2007. Thus, it is self evident that the marriage between the writ petitioner and the deceased employee was solemnised during the life time of the first wife and thus, the marriage becomes invalid in the eyes of law. That apart, the deceased employee, after his retirement on 30.09.1988, was receiving pension and after his death in the year 1993, the family pension was sanctioned to the first wife of the deceased employee Smt.Rajammal till her death during the year 2007 and therefore, further grant of family pension to the second wife/writ petitioner would not arise at all and therefore, the reasons stated in the order impugned is candid and in consonance with the settled principles.

7.Accordingly, the writ petition is devoid of merits and stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

sms/sli

To

- 1.The Chairman
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- 2.The Secretary,
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- 3.The Chief Engineer (Personnel),
The Tamil Nadu Electricity Board,
N.P.K.R.R.Maligai,
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4.The Chief Internal Audit Officer,
Board Office Audit Branch,
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No.800, Anna Salai,
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5.The Superintendent Engineer,
Kanyakumar Electricity Distribution Circle,
Parvathipuram, Nagercoil 629 003.

+lcc to Mr.P.Subramanian, Advocate SR. No. 34107

+lcc to M/s.V.Pushpa, Advocate SR. No. 34067

W.P.No.7001 of 2014

SMI (CO)
PR (17/06/2022)