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W.P.No.34364 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.34364 of 2018

C.Ramesh

...Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Education Department,
Secretariat Fort St.George,
Chennai.

2. The Head Master,
Government Higher Secondary School,
Poongulam,
Vaniyambadi Taluk,
Vellore 635 710.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records in proceedings No.A.Ti.Mu.No.61/18, dated 16/11/2018, on the file of 2nd respondent and quash the same as illegal, incompetent and without Jurisdiction and further direct the 2nd respondent to disburse the service benefits of late C.Rambamani to the nominees as per the service record maintained by the 2nd respondent.



For Petitioner

: Mr.Sunny for
Mr.V.Raghavachari

For Respondents

: Mrs.S.Mythreeya Chandru
Special Government Pleader**ORDER**

Returning of the application dated 09.10.2018, submitted by the writ petitioner, by the Head Master in proceeding dated 16.11.2018, is under challenge in the present writ petition.

2. The petitioner states that his elder sister was employed in Sanitation Department at Poongulam Higher Secondary School. The elder sister of the petitioner died on 26.07.2017 while she was in service. Immediately, the second respondent paid a sum of Rs.25,000/- towards her funeral expenses, which was received by the writ petitioner. The petitioner further states that his deceased sister got married and due to difference of opinion, her husband divorced her on 30.04.1983 and she had no other issues. The father of the writ petitioner died on 31.08.1991 and the mother of the writ petitioner also died on 01.06.2016.



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3. After the death of the employee, the petitioner approached the second respondent to disburse the pensionary benefits. However, the respondents have returned the application submitted by the writ petitioner and therefore, the petitioner is constrained to move the present writ petition.

4. The learned counsel for the petitioner made a submission that his deceased sister was not living with her husband from the year 1983 onwards, and he is authorised by the other legal heirs of his parents. Therefore, the department ought to have settled the entire pensionary benefits in favour of the writ petitioner. However, the petitioner could not state that his name was entered as the Nominee in the Service Records of the deceased employee.

5. The learned Special Government Pleader, appearing on behalf of the respondents, objected the contentions raised on behalf of the learned counsel for the petitioner by stating that there is a counter claim made by the husband of the deceased employee. One Mr.R.Govindhan submitted an



application on 21.01.2019, for settlement of the pensionary benefits, stating that he is the husband of the deceased Government Servant. The respondents have stated that the husband of the deceased employee, Mr.R.Govindhan himself admitted that he and his deceased wife were living separately for some years and thereafter, they lived together. Yet another certificate was also made available with the respondents, which was issued by the Tahsildar, Vaniyambadi in Va.No.2602/1990 dated 12.09.1990. In the said certificate, it is stated that the deceased Government Servant was married to Mr.R.Govindhan and due to some dispute, the deceased employee Mrs.Rambamani has not remarried and she lived as a destitute widow. However, there is no document to establish that a decree of divorce or otherwise was granted in respect of the matrimonial relationship between the deceased employee and Mr.R.Govindhan.

6. In the absence of a document to establish the dissolution of marriage or divorce, the Court cannot form an opinion that the petitioner, who claims to be the brother of the deceased employee, is entitled to claim the pensionary benefits due to the deceased employee. Whenever there is a dispute regarding the matrimonial relationship or the family relationship, the



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parties have to approach the competent Civil Court of Law for the purpose of resolving the same. As far as the respondent-Department is concerned, only in the event of submitting all requisite documents, they will be in a position to consider the application for settlement of the pensionary benefits.

7. In the present case, the petitioner submitted an application, claiming himself as the brother of the deceased employee and one Mr.R.Govindhan submitted an application on 21.01.2019, claiming himself as the husband of the deceased employee. As far as the family pension is concerned, the spouse of the deceased employee alone is entitled under the Tamil Nadu Pension Rules, 1978. If at all, the deceased employee nominated any other person for settlement of other benefits other than the family pension, then the department has to act accordingly. As far as the family pension is concerned, the same cannot be granted in favour of any person, other than the spouse of the deceased employee in accordance with the provisions of the Tamil Nadu Pension Rules, 1978.

8. This being the factum, this Court do not find any infirmity in respect of the order impugned passed by the second respondent. However,



the petitioner is at liberty to approach the competent Civil Court of Law in order to establish his relationship or otherwise in the manner known to law.

WEB COPY

9. With the abovesaid observations, this writ petition stands disposed of. However, there shall be no order as to costs.

11.10.2022

Index : Yes
Speaking order
sha/Svn

To

6/8



WEB COPY

W.P.No.34364 of 2



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S.M.SUBRAMANIAM, J.

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