



W.P.(MD)No.1150 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.1150 of 2020

- 1.R.Rethinammal
- 2.Dharani
- 3.Latha Mangesh

... Petitioners

Vs.

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Director,
Department of Health Services,
Chennai.
- 3.The Medical Officer,
Primary Health Center,
Bogaloor,
Sathirakudi,
Ramanathapuram District.
- 4.The Treasury Officer,
District Treasury,
Collectorate Complex,
Ramanathapuram.
- 5.The Accountant General,
361, Anna Salai,



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Teynampet,
Chennai-18.

6.Jayasankar

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records in Na.Ka.No.530/A1/2019 dated 31/08/2019 passed by the 3rd respondent and quash the same as illegal, incompetent and against the order of competent court and direct the respondents 2 to 5 to disburse 3/4th share in the family pension arrears amount out of Rs.2,63,220.00 (Rupees two lakhs sixty three thousand two hundred and twenty only) a sum of Rs.1,97 415.00 (Rupees One Lakh Ninety Seven Thousands four Hundred and Fifteen Only) to the 1st petitioner and also direct the respondents 2 to 5 to pass appropriate order for payment of future family pension amount to 1st petitioner.

For Petitioners	:	Mr.S.Ramesh
For Respondents	:	Mr.G.V.Vairom Santhosh Additional Government Pleader for R1 to R4 Mr.P.Gunasekaran for R5 Mr.J.Barathan for R6

ORDER

This Writ Petition has been filed to call for the records pertaining to the order passed by the third respondent in Na.Ka.No.530/A1/2019 dated 31.08.2019, quash the same and direct the respondents 2 to 5 to disburse a



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sum of Rs.1,97,415/- (Rupees One Lakh Ninety Seven Thousand Four Hundred and Fifteen only) in the family pension arrears amount out of Rs.2,63,220/- (Rupees Two Lakhs Sixty Three Thousand Two Hundred and Twenty only) to the first petitioner and also direct the respondents 2 to 5 to pass appropriate order for payment of entire future family pension amount to the first respondent within a time limit to be stipulated by this Court.

2. It is informed by the learned counsel appearing for the petitioners that during the pendency of the writ petition, the first petitioner had passed away.

3. The case of the petitioner is that the first petitioner's husband Ramamoorthy was working as Lab Assistant under the second respondent. Due to superannuation on 30.09.1992, he retired from service. After retirement, he was receiving retirement benefits and family pension. On 14.07.2006, he died intestate leaving behind the first petitioner and his two daughters and a son. During his lifetime, the daughters/petitioners 2 and 3 got married and he arranged the marriage for his son, the sixth respondent



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herein. Therefore, the deceased first petitioner made a representation before the third respondent for disbursal of pension along with the legal heirship certificate. However, the third respondent did not take any steps. Hence, she filed a writ petition in W.P.(MD).No.960 of 2010 before this Court to disburse the family pension, in which, the 6th respondent filed an impleading petition and took unwanted stand that there is no marital relationship between the first petitioner and his father. Immediately, the first petitioner and her daughters filed S.O.P.No.2 of 2011 before the Subordinate Court, Ramanathapuram, in which, the 6th respondent was arrayed as 4th respondent. At the time of hearing of the aforesaid writ petition, it was informed by the first petitioner's Counsel before this Court that S.O.P.No.2 of 2011 is pending and she sought a direction from this Court to direct the Subordinate Court, Ramanathapuram, to dispose of S.O.P.No.2 of 2011 at an early date. Based on the submissions, this Court directed the Subordinate Court, Ramanathapuram to dispose of S.O.P.No.2 of 2011 on or before the end of April 2013 and accordingly, the said writ petition was disposed of. However, on 01.09.2015, the Subordinate Court, Ramanathapuram, dismissed the said S.O.P.No.2 of 2011. Thereafter, the first petitioner made



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several representations, however, they were rejected on the ground that the suit in O.S.No.28 of 2017 is pending at the instance of the 6th respondent which is filed for declaring that the first petitioner is not the wife of her father.

4. The learned counsel appearing for the petitioners would submit that during the pendency of the present writ petition, the suit filed by the 6th respondent was dismissed and there is no legal impediment for the respondents to consider the claim of the petitioner as well as the 6th respondent.

5. The learned Special Government Pleader appearing for the respondents 1 to 5 would submit that this Court may set aside the impugned order and remand the matter back to the respondents 1 to 5 for passing fresh order in terms of Pension Rules.

6. In view of the submission made by the learned Special Government Pleader appearing for the respondents 1 to 5, since the present rejection



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order has been passed only based on the pendency of the civil suit in O.S.No.28 of 2017 and the suit itself was dismissed, hence there is no legal impediment for the respondents to consider the claim of the petitioners as well as the 6th respondent.

7. Accordingly, the impugned order passed in Na.Ka.No.530/A1/2019, dated 31/08/2019, is set aside and the matter is remanded back to the third respondent for fresh consideration. The third respondent is directed to hear the petitioners 2 and 3 and the 6th respondent and pass appropriate orders in terms of the Pension Rules by considering the dismissal of the suit in O.S.No.28 of 2017.

8. Accordingly, this Writ Petition is allowed as above. No costs.

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Index : Yes / No

Speaking Order : Yes / No

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