



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2484 of 2022

WEB COPY

Mrs.S.Sathya

... Petitioner

Vs.

1.The Managing Director,
Tamilnadu State Transport Corporation,
Madurai Region, Corporate Office, Madurai-10.

2.The Administrator,
The Tamil Nadu State Transport Corporation Pension Fund Trust,
Thiruvalluvar House,
Pallavan Salai, Chennai-600 002. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to consider her representation dated 24.01.2022 and to direct the respondents to pay the family pension to the petitioner as per the entry in the service register of petitioner's husband late Santhakumar (DR No.52655) within time frame as stipulated by this Court.

For Petitioner : Mr.Sarvagan Prabhu

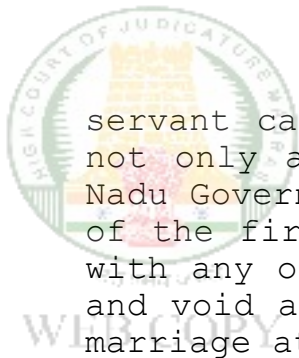
For Respondents: Mr.J.Senthil Kumaiah,
Standing Counsel

O R D E R

The relief sought for in the present writ petition is to direct the respondents to consider the representation dated 24.01.2022.

2.The representation submitted by the petitioner dated 24.01.2022 reveals that the husband of the petitioner was a Government pensioner and receiving pension till his death. The husband of the petitioner died on 09.04.2021. Thereafter, the petitioner submitted an application for family pension. On verification of the service records of the deceased employee, it was found that the name of the petitioner was entered as second wife in the service records of the deceased employee. The petitioner stated that when the first wife of the deceased employee Smt. S.Vimala was sick, the deceased employee married the petitioner as second wife and their marriage was solemnised with the permission of the family members and therefore, it is to be recognised.

3.This Court is of the considered opinion that a Government



servant cannot enter into a contract for second marriage, which is not only an offence of Bigamous, but a misconduct under the Tamil Nadu Government Servants' Conduct Rules, 1973. During the life time of the first wife, no Government servant can enter into a contract with any other woman and such a marriage even if solemnised is null and void and therefore, the second marriage cannot be considered as marriage at all.

4. In the present case, admittedly, the marriage between the deceased employee with the petitioner was solemnised during the life time of the first wife and that being so, the marriage of the petitioner with the deceased employee is invalid and therefore, the petitioner cannot be construed as a legally wedded wife of the deceased employee for the purpose of availing the benefit of family pension under the Tamil Nadu Family Pension Rules. These being the principles, the petitioner has not made out any ground for the purpose of even considering her representation.

5. Mere direction to consider the representation cannot be issued in a routine manner by the High Court under Article 226 of the Constitution of India. Even for issuing a direction to consider the representation, the person approaching the Court must establish a right and in the absence of any right, no such direction can be issued. Merely issuing a direction to consider the representation submitted by the litigants to the authorities would do no service to the cause of justice. Therefore, Courts are expected to restrain in issuing a direction to consider the representation in a routine manner.

6. As a growing trend, filing a writ petition to consider the representation for the purpose of restoring the lapsed cause of action is to create a new cause of action. Such a trend created would impend the system and more so even the person would be tempted to restore the lapsed cause of action for the purpose of adjudication. In the event of issuing such a direction to consider the representation in a routine manner, the authorities are passing orders one way or other and such action is taken as cause of action for further litigating the issue and such a practice can never be encouraged by the Courts. This being the factum, the petitioner has not established even a semblance of legal right so as to consider the relief as such sought for in the present writ petition and consequently, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(AD-I)

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/ /2022

Sub Assistant Registrar(CS)



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Madurai Region, Corporate Office,
Madurai-10.

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The Tamil Nadu State Transport
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+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-4930[F] dated
09/02/2022)

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07.02.2022

MA (CO)
TR (21.02.2022) 3P 4C