



W.P.(MD)No.5316 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.5316 of 2020

Jaya @ Jayapandiammal

... Petitioner

Vs.

1.The Director,
Department of Horticulture,
Chepauk, Chennai.

2.The Deputy Director,
Horticulture Department,
Kodaikanal,
Dindigul District.

3.Dhanam

4.Rathinamani

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent vide letter No.Oo.Na.Ma2/4329 dated 19.11.2019 and quash the same as illegal,



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improper, unconstitutional and arbitrary and consequently direct the 1st and 2nd respondents to disburse the terminal benefits of late V.Veeramani, the husband of the petitioner herein to her and her children namely Harani Madha & Hari Varshini on pro-rata basis.

For Petitioners : Mr.R.Murugan
For Respondents : Mr.C.Satheesh
Government Advocate
for R1 and R2.

ORDER

This Writ Petition has been filed to call for the records pertaining to the impugned order passed by the 1st respondent vide letter No.Oo.Na.Ma2/4329, dated 19.11.2019, quash the same as illegal and consequently, direct the 1st and 2nd respondents to disburse the terminal benefits of late V.Veeramani, who is the husband of the petitioner, to her and her children, namely, Harani Madha & Hari Varshini on pro-rata basis.

2. The case of the petitioner is that the petitioner's husband, namely, Veeramani was working as Junior Assistant in the second respondent Office and the petitioner was also working in the same office as



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daily wages for a sum of Rs.200/- per day. The petitioner fell in love with the said Veeramani and the said Veeramani has also expressed his consent to her. Thereafter, on 01.09.2011, the marriage was solemnized between them and they blessed with twin female children. While so, on 27.01.2019, the said Veeramani died. Thereafter only, the petitioner came to know about the first marriage of the said Veeramani with one Rathinamani. The said Rathinamani is working as a Teacher in the Government High School and she is having female child. After the demise of the petitioner's husband, the petitioner made a representation to settle the terminal benefits in her favour, however, the same was rejected on the ground that already a suit is pending between the said Rathinamani and the petitioner. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that admittedly, the said Veeramani has not stated about his first marriage to the petitioner and suppressing the above fact, he re-married the petitioner. After his demise, the petitioner came to know about the first marriage. The law permits for the second marriage that though the first marriage is in



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subistence, the children born out of the second wedlock are entitled for claiming the terminal benefits. Hence, this Court may set aside the impugned order and remand the matter back to the Authority to consider the claim of the petitioner's children for receiving the benefits.

4. The learned Government Advocate for the respondents submits that the said Veeramani had married the petitioner herein without divorcing his first wife, namely, the fourth respondent herein. Hence, the validity of the marriage between the petitioner and the said Veeramani is questioned and it can only be decided by the civil Court of law. Hence, the respondents have rejected the representation of the petitioner and there is no fault on their part.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2.

6. The facts in the present case are not in dispute. Admittedly, the petitioner is the second wife of the said Veeramani. Without divorcing the



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first wife, the said Veeramani married the petitioner and they blessed with two female children out of the wedlock. However, the fact remains that it is a family dispute between the first wife and the second wife and it has to be decided by the civil Court of law. For entitlement of terminal benefits, the Official respondents have no power to decide the issue. Hence, the prayer sought for in the present writ petition cannot be granted. However, liberty is granted to the petitioner as well as her children to approach the civil Court of law. If they succeed by impleading the first wife and her legal heirs, liberty is granted to the petitioner to make a fresh application for receiving the terminal benefits.

7. Accordingly, this Writ Petition is dismissed. No costs.

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Index : Yes / No

Speaking Order : Yes / No

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