



W.P.(MD)No.7914 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.7914 of 2020

M.Vellathai

... Petitioner

Vs.

1.The Accountant General, (Accounts & Entitlement),
O/o.the Accountant General Office,
261, Anna Salai,
Chennai – 600 018.

2.The Superintendent of Police,
Government Railway Police,
Trichy.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records from the second respondent pursuant to his impugned order, dated 10.03.2020 in his proceedings in Na.Ka.No.G3.16121/2019 and impugned order passed by the second respondent in his proceedings in Na.Ka.No.G3.16121/2020, dated 19.03.2020 to quash the same and consequently, direct the second respondent to receive the petitioner's family



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pension proposal dated 01.11.2019 and forward the same to the first respondent and on receipt of the same direct the first respondent to sanction the family pension based on the petitioner's father death certificate dated 28.05.1990 and his legal heir certificate dated 06.03.1996 without insisting upon correction of certificates within the time stipulated by this Honourable Court.

For Petitioner	:Mr.P.Senthur Pandian
For R-1	:Mr.P.Gunasekaran
For R-2	:Mr.C.Satheesh, Government Advocate

ORDER

This writ petition has been filed to quash the impugned order passed by the second respondent in Na.Ka.No.G3.16121/2019, dated 10.03.2020 and the consequent order passed by the second respondent in Na.Ka.No.G3.16121/2020, dated 19.03.2020 and to direct the second respondent to receive the petitioner's family pension proposal, dated 01.11.2019 and forward the same to the first respondent and to direct the first respondent to sanction the family pension based on the death certificate



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of the petitioner's father, dated 28.05.1990 and his legal heir certificate, dated 06.03.1996 without insisting upon the correction of certificates, within a stipulated period.

2. The case of the petitioner is that the petitioner is a widowed daughter of a Railway Police Constable under the second respondent and he retired from service on 28.02.1979 and subsequently, he received pension upto the year 1982. After his death, the mother of the petitioner received the family pension till her death. The grievance of the petitioner is that, she is a widow and has no issues and therefore, she is entitled to receive the family pension in terms of G.O.Ms.No.325, Finance (Pension) Department, dated 28.11.2011 and thereby, the petitioner made an application before the second respondent on 01.11.2019 with relevant documents, requesting to grant family pension to the petitioner. On receipt of the same, the second respondent has also called for additional particulars. Pursuant to which, the petitioner has also submitted additional particulars. Even then, the second respondent had not forwarded the pension proposal to the first respondent, instead, passed the impugned orders. Challenging the same, the petitioner



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has filed this writ petition with the aforesaid prayer.

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3. The learned counsel appearing for the petitioner would submit that the second respondent passed by the impugned orders stating that in the death certificate of the petitioner's father as well as the Legal Heir Certificate, his name is mentioned as Thiru.S.Velayya Pandian, however, in the service records, his name is mentioned as Thiru.S.Velayya and therefore, the petitioner has to get a certificate from the concerned Tahsildar stating that Thiru.Velayya and Thiru.Velayya Pandian is one and the same person and produce before the second respondent and then only, pension proposal would be forwarded to the first respondent.

4. The learned counsel appearing for the petitioner would submit that it is a customary practice in Tirunelveli District to call a person as “Pandian”, who belongs to Hindu Maravar Community, however, the second respondent refused to grant family pension in favour of the petitioner and directed to get a certificate from the Tahsildar concerned, which is not sustainable one and hence, prayed for allowing of this writ petition.



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5. The learned Government Advocate appearing for the second respondent would submit that before sending pension proposal to the first respondent, the name of the petitioner's father mentioned in the death and legal heir certificate was verified with the service records of retired Thiru.S.Velaya and the same was found incorrect. Hence, the certificates were returned to the petitioner to rectify the mistake and to resubmit the corrected certificates for sending life time family pension proposal to the Accountant General, Chennai. However, till date, the corrected certificates are not produced by the petitioner. Further, life time pension proposal for the petitioner could not be sent to the first respondent with incorrect certificates and hence, there is no irregularity or infirmity in the orders passed by the second respondent and hence, prayed for dismissal of this writ petition.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



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7. The petitioner claimed that she is a widowed daughter of late.Thiru.S.Velayya, who retired from service on 28.02.1979. Subsequently, on his death, the mother of the petitioner received pension upto her death. Subsequently, the petitioner being a widow, she is also entitled to family pension in terms of G.O.Ms.No.325, Finance (Pension) Department, dated 28.11.2011. For which, she has also made an application before the second respondent along with necessary documents. However, the legal heir certificate produced by the petitioner shows the petitioner's father name as Thiru.S.Velayya Pandian, whereas in the service records, his name is mentioned as Thiru.S.Velayya and hence, vide the impugned orders, the petitioner was directed to get a certificate from the concerned Tahsildar stating that Thiru.Velayya and Thiru.Velayya Pandian is one and the same person, which is perfectly in order.

8. In view of the disputed question of fact, this Court cannot interfere with the impugned orders passed by the second respondent and therefore, this writ petition is liable to be dismissed.



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9. In the result, this writ petition is dismissed. However, liberty is hereby granted to the petitioner to re-submit the application with relevant documents. If any such application is filed with appropriate details, the second respondent is directed to consider the same and pass appropriate orders, as expeditiously as possible. No Costs.

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Index : Yes / No

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M.DHANDAPANI,J.

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