



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:07.04.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.10008 of 2019
and WMP(MD) No.7802 of 2019

G.Manjula

... Petitioner

Vs.

1.The Principal Secretary to Government
Social Welfare and Nutrition Programme
Government of Tamilnadu
Fort St. George, Chennai 600 009.

2.The Commissioner of Social Welfare,
Panagal Maligai
Saidapet, Chennai.

3.The Director,
Integrated Child Development Scheme,
Tharamani, Chennai 113

4.The District Collector,
Tiruchirappalli

5.The Project Officer,
Integrated Child Development Scheme,
Child Development Department
Old Collector Office Building, Trichy.

6.The Accountant General
361 Anna Salai
Teynampet
Chennai

7.N.Vembu

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct the respondents to sanction 2/3rd of the family pension to the benefit of the petitioner's two minor children, payable on the death of the petitioner's husband B.Nagarajan.

For Petitioner

: Mr.K.S.Muthu

For Respondents

: Mr.A.K.Manikkam for R1 to R5
Special Government Pleader
Mr.P.Gunasekaran for R6
Mr.G.Kannan for R7



ORDER

The relief sought for in the present writ petition is to direct the respondents to sanction 2/3rd of the family pension to the benefit of the petitioner's two minor children, payable on the death of the petitioner's husband B.Nagarajan.

2. The petitioner admittedly is the second wife of the deceased employee Mr.Nagarajan, who was working as Jeep Driver and died while he was in service.

3. The learned counsel for the petitioner states that the first wife of the deceased employee is living separately along with her two sons and one of the son already got appointment on compassionate grounds. The petitioner is the second wife having two minor sons and therefore, the pension is to be shared with the minor sons.

4. The learned counsel for the 7th respondent made a submission that the 7th respondent is the legally wedded first wife of the deceased employee. She is entitled for family pension as per the Tamil Nadu Pension Rules 1978. The petitioner being the second wife is not entitled for family pension as the second marriage is not valid in the eye of law. The family pension cannot be shared and it is to be paid only to the legally wedded spouse. As far as the other terminal benefits are concerned, equal share has already been settled in favour of the minor children of the second wife/writ petitioner and therefore, the very relief sought for in the writ petition to share the family pension is in violation of the Tamil Nadu Pension Rules, 1978.

5. This Court is of the considered opinion that as per the Tamil Nadu Family Pension Rules, 1978, family pension is paid only to the eligible spouse. Family pension cannot be shared between legal heirs. As far as the terminal benefits are concerned, the same had been settled equally between the other legal heirs, more specifically to the minor children of the writ petitioner. This being the factum, the relief as such sought for is strictly in violation of the Tamil Nadu Pension Rules and cannot be considered.

6. The writ petition stands dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Protocol)

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/ /2022

Sub Assistant Registrar(CS)



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+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-17453[F] dated
08/04/2022)

+1 CC to M/s.SPL.G.P (SR-17579[F] dated 08/04/2022)

W.P. (MD) No.10008 of 2019
07.04.2022

SG(CO)
KB(29.04.2022) 3P 9C