



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.04.2022

CORAM:

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

W.P. (MD)No.7894 of 2019

V.Selvaraj

... Petitioner

Vs.

The Principal Accountant General (A&E)
No.361, Anna Salai,
Chennai-600 018.

... Respondent

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent herein to record the name of Tmt.Piramila, W/o.V.Selvaraj, petitioner herein in the service register of the petitioner as his nominee.

For Petitioner : Mr.K.Appadurai

For Respondent : Mr.P.Gunasekaran

ORDER

The relief sought for in the present writ petition is to direct the respondent to record the name of Tmt.Piramila, W/o.V.Selvaraj, in the service register of the petitioner as his nominee.

2.The petitioner is a retired Headmaster and receiving pension. The petitioner retired on 31.07.2015 on attaining the age of superannuation. The petitioner himself has stated that he is living with his second wife Tmt.S.Piramila. However, the petitioner submitted the name of second wife, instead of the name of his first wife viz., Tmt.Vanapetchi, is a nominee.

3.The learned counsel appearing for the respondent made a submission that the second marriage was contracted, during the life time of the first wife and the first wife is alive. The petitioner has not obtained any decree of divorce from the competent Court of law. Therefore, the name of the second wife cannot be entered in the pension records, as the second marriage is invalid.

4.The Hon'ble Division Bench of this Court has settled the principles in the case of ***R.Rajathi-vs-The Superintendent Engineer TANGEDCO Ltd.***, reported in ***2018-1-Writ L.R.725***, and the relevant paragraphs are extracted hereunder:



"42. We have discussed the basis on which the various judgments, of course conflicting views, have been rendered. Insofar as the view that the second wife of the Government Servant, who died prior to 02.06.1992 as held in Tamilselvis case, referred to supra, and the view that a widow of an invalid second marriage that had taken place prior to 14.10.1991, as held in Pushpavallis case, have given our reasons, as to why, we are unable to subscribe to the said conclusions of the learned Single Judge. We are, therefore, of the opinion that in order to enable a second wife to claim family pension the marriage should have been valid under the Personal Law applicable to the parties, to hold otherwise would be in violation of the law of the land, viz. the Personal Law of the parties as well as the Criminal Law, which prohibits bigamous marriage.

43. We are, therefore, constrained to conclude that the judgments which conclude that a second wife would be entitled to family pension, irrespective of her marriage being void, under the provisions of their relevant Personal Laws applicable to the parties do not reflect the correct position of law and therefore will stand overruled. The applicability of Sub Rule 7(a)(i) is confined only to cases where the second marriage is valid under the Personal Law applicable to the parties, only in such cases, widows of such marriages would be entitled to family pension.

44. In view of the foregoing discussion and conclusions, the Writ Appeal fails and dismissed. However, there will be no order as to costs."

5. In view of the fact that, the second marriage solemnized during the life time of the first wife is invalid and the claim of the writ petitioner cannot be considered and therefore, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

Ns

To
The Principal Accountant General (A&E)
No.361, Anna Salai,
Chennai-600 018.

W.P. (MD)No.7894 of 2019

08.04.2022