

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.18470 of 2022

J.Violet Premila

... Petitioner

Vs

1.The Principal Accountant General (A & E),
No.361, Anna Salai, Teynampet,
Chennai.

2.The Chief Engineer,
Public Works Department (Water Resource Organization),
Madurai Region, Thallakulam,
Madurai – 625 002.

3.The Superintending Engineer,
Public Works Department (Water Resource Organization),
Ground Water Circle, Thallakulam,
Madurai – 625 002.

4.O.R.S.Sathyavathi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 to 3 to sanction the family pension to the petitioner by substituting her name as nominee in Pension Payment Order of the petitioner's husband namely P.R.Kumaresan in PPO No.R1507926 on the basis of the petitioner's representation dated 20.10.2021.

For Petitioner : Mr.R.Shankar Ganesh

For Respondents : Mr.P.Gunasekaran,
Standing Counsel for R1.
Mr.N.Satheesh Kumar,
Addl. Government Pleader for R2 & R3.
No appearance for R4.

ORDER

Heard the learned counsel for the writ petitioner, the learned standing counsel for the first respondent and the learned Additional Government Pleader for the respondents 2 and 3. Though fourth respondent has been served and her name is printed in the cause list, she has not chosen to enter appearance.

2.One P.R.Kumaresan was employed in the Public Works Department. He retired on 30.11.2012 as Superintending Engineer. He got married to the fourth respondent. Even during the subsistence of the said marriage, he entered into a bigamous marriage with the writ petitioner herein in the year 2006. Through the said second marriage, three children appear to have been born. Kumaresan passed away on 28.04.2021. The petitioner now seeks pensionary benefits.

3.It is seen that the relationship between Kumaresan and the fourth respondent was dissolved through Court process only on 12.01.2017 in H.M.O.P.No.519 of 2016 on the file of Family Court, Madurai.

4.The writ petitioner and the said Kumaresan did not formally get married thereafter. In these circumstances, the fourth respondent cannot claim any pensionary benefits. She had ceased to be the wife of P.R.Kumaresan.

5.The writ petitioner also cannot claim any pensionary benefit because her marriage was void *ab initio*, since it had taken place during the subsistence of the first marriage between Kumaresan and the fourth respondent.

6.At the same time, the petitioner is not left without remedy. Her elder child appears to be aged about 15 years. The petitioner can submit an application through proper channel for granting family pension for the elder daughter. The elder daughter would get family pension till she gets married or till she completes 25 years, whichever is earlier. Even thereafter the petitioner can obtain family pension for the other children on the same lines. This direction is given on the presumption that no child was born through the first respondent. The petitioner will have to execute an indemnity bond and comply

with other formalities that may be stipulated by the department. The petitioner states that she would submit a formal application through proper channel within a period of two weeks from the date of receipt of a copy of this order. The family pension as mentioned above shall be sanctioned within a period of eight weeks thereafter.

7.The writ petition is disposed of with the aforesaid directions. No costs.

08.09.2022

Index : Yes / No
Internet : Yes/ No
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To:

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G.R.SWAMINATHAN, J.

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