



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.21013 of 2022

Anthoniummal

... Petitioner

Vs.

1. The Principal Accountant General (A & E),
Tamil Nadu,
No.361, Anna Salai,
Chennai – 600 018.

2. The Assistant Executive Engineer,
Public Works Department,
Water Resources Department,
Marudhanadhi Basin Sub Division,
Nilakottai, Dindigul District.

3. The Sub Treasury Officer,
Srivilliputhur.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 1st respondent in P15/1/FP/11521422/DGP dated 19.12.2018 and quash the same as illegal in so far as rejecting the petitioner's entitlement for family pension in respect of her son namely late X.Anandhan alone and consequently direct the 1st respondent to grant family pension to the petitioner in respect of his son namely late X.Anandhan.



For Petitioner : Mr.R.J.Karthick

For R-1 : Mrs.S.Mahalakshmi,
Standing Counsel.

For R-2 & R-3 : Mr.R.Sureshkumar,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The writ petitioner's husband was working as Work Inspector Grade-II in Public Works Department. He passed away on 07.01.1998. The petitioner has been receiving family pension following her husband's demise.

3. The petitioner's son Thiru.Anandhan was also employed as Work Inspector in the very same department. He also passed away on 29.04.2018. The marriage between the petitioner's son and one Alphonsa had been dissolved in the manner known to law. The petitioner's son did not have any issue. The petitioner raised a claim that she may be paid



family pension on account of her son's demise and she was willing to forego the family pension which she was drawing on account of the demise of her husband. The petitioner's request was rejected by the first respondent. Challenging the same, the present writ petition came to be filed.

4. The learned counsel appearing for the petitioner took me through the relevant provisions of Tamil Nadu Pension Rules 1978 and some case laws and contended that the stand of the respondents must be set aside and the petitioner must be allowed to draw family pension on account of her son's demise.

5. The first respondent filed a detailed counter affidavit and the learned Standing Counsel also took me through its contents. The learned counsel appearing for the first respondent as well as the learned Additional Government Pleader appearing for respondents 2 and 3 strongly submitted that the writ petition deserves to be dismissed. According to them, the petitioner who is already in receipt of the family pension cannot be considered as a dependant of her son,



namely, Anandhan. The learned Standing counsel draws my attention to G.O.Ms.No.327 Finance (Pension) Department dated 30.08.2001 and also Letter No.10544/Pension/2002-3 dated 13.09.2004. It is also submitted that only a person who is in receipt of Military pension can claim pension under the State Government also and others are not entitled to claim dual pension. They pressed for dismissal of the writ petition.

6. I carefully considered the rival contentions and went through the materials on record.

7. Even while commencing his submissions, the learned counsel appearing for the petitioner made it clear that the petitioner is not seeking dual pension and that she is confining her claim to receive family pension payable on account of the demise of the petitioner's son Anandhan.

8. The issue raised in this writ petition is no longer *res integra*.



9. A learned Judge of this Court vide order dated

10.01.2022 in **W.P.(MD)No.15534 of 2018 (B.Rathinam**

V. The Principal Accountant General (A&E), Chennai)

had held that where the claimant becomes entitled to second family pension in addition to the family pension already granted, his or her entitlement shall be restricted only to one and that shall be the higher of the two family pensions paid by the State.

10. Respectfully applying the aforesaid ratio, I set aside the impugned stand taken by the respondents. The writ petitioner will be entitled to family pension payable to her on account of his son's demise. Her right to receive family pension shall be computed from the date of her application.

11. Respondents 2 and 3 are directed to prepare a fresh family pension proposal by taking into account the petitioner's son's last drawn income. The petitioner will be entitled to arrears of pension from the date of her application, namely, 22.11.2018. The first respondent shall approve the same and the benefits payable to the petitioner shall be paid



within a period of twelve weeks from the receipt of a copy of this order. This writ petition stands allowed accordingly. No costs.

02.11.2022

Index : Yes / No
Internet : Yes/ No

PMU

To:

1. The Principal Accountant General (A & E),
Tamil Nadu,
No.361, Anna Salai,
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G.R.SWAMINATHAN,J.

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