



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2022

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.20426 of 2021

Lakshmi

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Tuticorin District,
Tuticorin.

2.The Tahsildar,
(Social Security Scheme),
Ettaiyapuram,
Tuticorin District.

3.The Tahsildar,
(Social Security Scheme),
Vilathikulam Taluk,
Vilathikulam,
Tuticorin District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the third respondent in Na.Ka.No.Sa.Pa.Thi./31/2017 dated 12.05.2021 and quash the same and direct the respondents to continue to pay the destitute pension from February 2004 with arrears and with interest.

For Petitioner : Mr.S.Natarajan

For Respondents : Mr.VeeraKathiravan,
Additional Advocate General - III.
Assisted by Mr.D.Ghandiraj,
Special Government Pleader.

ORDER

Heard Mr.S.Natarajan, learned counsel for the petitioner and Mr.Veerakathiravan, learned Additional Advocate General - III, assisted by Mr.D.Ghandiraj, learned Special Government Pleader for the respondents.

2. This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with an order of the third respondent/the Tahsildar (Social Security Scheme)



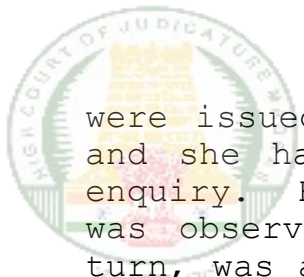
Vilathikulam, Tuticorin District dated 12.05.2021 and for a further direction to the respondents to continue to pay the destitute pension from February 2004 to the petitioner herein.

3. The petitioner Lakshmi, who was aged 68 years at the time of filing the affidavit in support of the Writ Petition claimed that she was originally a native of T.Shanmugapuram Village, Ettaiyapuram Taluk, Tuticorin District. She had married Ramachandran @ Ramasamy of Rajapatti. Thereafter, owing to misunderstanding, she came back to her parents house. She had applied for pension under the destitute women pension scheme and after enquiry, the destitute pension was also sanctioned by an Order No.DWP/103/11/98/ KLP and she had been receiving the pension.

4. In the year 2002, the petitioner fell sick and was admitted to Vilathikulam Government Hospital and was taking treatment. At that time she came into contact with, whom she called a distant relative, Rajaram and his wife. They are residents of Vathalakarai Village in Vilathikulam Taluk. They helped her in the hospital. After discharge, since she required support, they brought her to Vathalakarai Village and were looking after her health. She stayed in the Village itself. She had been looked after by the said Rajaram. There is a dispute whether her name finds place as a head of the family of Rajaram or whether that named person Lakshmi in the Family Card of Rajaram is the petitioner herein or his sister or whether her name actually finds place in any other position in the Family Card of Rajaram or not. But effectively, her needs are being taken care of by the said Rajaram and his family. That is a fact established.

5. Thereafter, again the petitioner sought pension. The petitioner's pension was stopped abruptly from January 2004. It was stated that she was no longer residing at Shanmugapuram Village. Thereafter she kept making representation after representation seeking continuation of the payment of destitute pension. There were various proceedings issued by the authorities and finally, she had to file W.P.(MD).No.8460 of 2017 and a learned Single Judge of this Court, by an order, dated 09.10.2018 had directed the grant of destitute pension to the petitioner herein. That order was taken up in appeal by the respondents in W.A.(MD).No.645 of 2019 and the Division Bench of this Court by an order dated 15.02.2021 had opined that it was not for the Court to decide whether she was eligible to receive destitute pension and not for the Court to issue a positive direction, directing the respondents to grant pension and therefore stated that such an enquiry should be conducted only by the respondents and directed such enquiry to be conducted.

6. Pursuant to such direction by the Writ Appellate Court, the respondents had issued notice to the petitioner herein calling upon her to come forward to attend enquiry. It is claimed



were issued during the lock down period in the year 2021/May 2021 and she had sent a reply expressing her inability to attend the enquiry. However, the impugned order came to be passed whereby, it was observed that she had been looked after by Rajaram, who, in turn, was a man apparently possessed of quite large extents of land and therefore, she cannot be classified as destitute and therefore, justified stopping with the grant of destitute pension and also refused to grant destitute pension. This order is now questioned by the petitioner herein.

7. Heard Mr.S.Natarajan, learned counsel for the petitioner and Mr.VeeraKathiravan, learned Additional Advocate General - III, assisted by Mr.D.Ghandiraj, Special Government Pleader on behalf of the respondents.

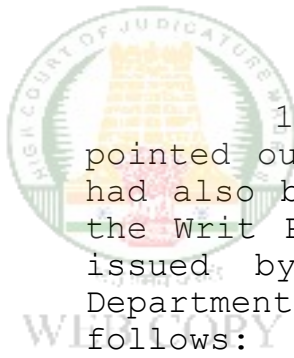
8. The issue is quite simple. The only issue to be examined is whether the petitioner should be granted destitute pension or not. Originally, the circumstances which surrounded her, made it necessary for her to be granted with destitute pension. At that particular point of time, she had left the habitation of her husband and went back to her parents place at Shanmugapuram Village, Ettaiyapuram Taluk. At that time, in Shanmugapuram Village, Ettaiyapuram Taluk, she could reasonably claim to be a destitute.

9. However, she fell sick and was admitted at Vilathikulam Government Hospital and during the time she took treatment, she came into contact with her distant relative Rajaram and his wife, who are residents of Vathalakarai Village. They took her under their umbrella and brought her to their Village and she had been staying there with them. Even in the address given in the cause title to the Writ Petition, her address is at Vathalakarai, K.Duraichampuram Post, Vilathikulam Taluk, Tuticorin District. The issue now to be decided, is whether she has to be granted destitute pension again or not.

10. During the course of arguments advanced by Mr.S.Natarajan, learned counsel for the petitioner and by the learned Additional Advocate General, I had a quick glance at the Black's Law Dictionary 10th Edition. The definition of the word 'destitute', as given in the said Black's Law Dictionary is

- (i) Deprived; bereft**
- (ii) Not possessing the necessities of life;
lacking possessions and resources;
indigent.**

It has to be examined whether the petitioner could be fitted in into any one of these descriptions given for being classified as a 'destitute'.



11. Mr.S.Natarajan, learned counsel for the petitioner pointed out various Government Orders in this connection and which had also been enclosed in the typed set of papers filed along with the Writ Petition and pointed out Letter Ms.No.25 dated 17.04.2015 issued by the Social Welfare and Nutritious Meals Programme Department wherein, after an amendment, it had been provided as follows:

The following definition of 'destitute' shall be substituted to Rule 5 of the Madras Pension Rules:

A "Destitute" is a person,

**(a) without any income or source of income,
(b) without any income or source of income and owning fixed assets valuing less than Rs.50,000/-, who have no relatives of 20 years of age and over of the following categories:-**

**i) Son;
ii) Son's son; and
iii) husband/wife and other related persons, who normally live together;**

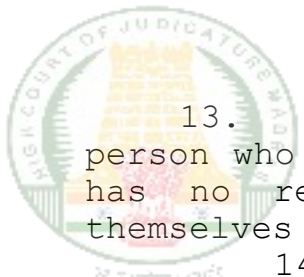
Provided that a person will be deemed to be a destitute if all the relatives falling within the categories specified above are

a) themselves below poverty line, such a fact being proved to the satisfaction of the sanctioning authority; or

b) continuously missing and the sanctioning authority has satisfied him/herself by such enquiry as he/she deems necessary that the relatives are so missing;

12. Learned counsel for the petitioner also pointed out G.O.Ms.No.26 of Social Welfare and Nutritious Meals Programme dated 17.04.2015, wherein, again it had been stated as follows for destitute:

Sl.No.	Name of the Scheme	Existing eligibility criteria	Revised eligibility criteria
7.	Destitute/ Deserted Wives Pension Scheme (DDWPS)	(i)Destitute (ii)30 years and above (iii)Must be legally divorced or deserted for not less than 5 years (or) obtained legal separation certificate from a competent Court of law.	(i)Destitute (ii)30 years and above (iii)Must be legally divorced or deserted for not less than 5 years (or) obtained legal separation certificate from a competent Court of Law.



13. Primarily, it is pointed out that a 'destitute' is a person who has no source of income or rather who has no income, who has no relatives, and if all there are relatives, they are themselves below the poverty line.

14. Quite strangely, in the affidavit, the petitioner has not given any detail about how Rajaram is related to her. That is a fact suppressed from this Court. Merely stating that he is a distant relative will not come to the rescue of the petitioner. It is a burden cast on the petitioner herein to state as to who this Rajaram is and in what manner he is related to her and how and why she has been taken care of by him and by his wife. It is also seen that he is a man of means. He is a landlord. He has nearly about 70 acres of land. Therefore, the position of the petitioner is not that she has no source for food day after day. She is being provided for. She is being looked after. She has shelter. She is provided with her own comfort under the umbrella of the said Rajaram and his family. In that circumstance, if she is to claim that she is still a destitute, it would only imply that she is seeking further comfort, when she is already in good care and is not actually entitled. There is no necessity as on date.

15. Learned counsel for the petitioner pointed out that in the Writ Appellate Court, a direction was given that enquiry should be conducted before declaring that the petitioner is not a destitute. Learned counsel pointed out that notices were issued for enquiry, but the petitioner had given reasons for not being able to attend the enquiry and therefore, stated that the enquiry itself has not been conducted in proper form and consequently, a finding based on such an enquiry should be interfered with by this Court.

16. In an enquiry, notice alone can be given. It is for the person to whom the notice which had been issued to go over and attend enquiry. It cannot be expected that facilities must be granted to also make them available to attend the enquiry. They can attend the enquiry. They need not attend the enquiry. They can forward a representation by post. They can totally ignore the notice. The choice is entirely left with the person to whom the notice is issued.

17. In this case, notices had been issued. The petitioner had not appeared. She, in fact, in one of her replies, stated that documents were with her Advocate and therefore, she cannot attend.

18. I am not able to understand that particular fact when a destitute is able to provide for and has the support of a Advocate to represent her in an enquiry relating to her personal circumstances, then she will certainly not fall under the category of destitute particularly, when her needs are being taken care of. She has no lack of food. She has no lack of money. She has no lack of comfort. She has no lack of shelter. They are being taken care of by Rajaram and she must shower her blessings to Rajaram and his wife for having taken care of her, particularly, when her husband had deserted her. That is sufficient. That would give her peace of mind. She need not go back to the Government seeking destitute

<https://hccservices.com/online/cases/> the Government can give to any other lady who is more



deserving than her. Let her be satisfied with the blessings showered on her is being able to find someone who takes care of her needs.

19. Moreover, a further definition in Google search for the word 'destitute' throws up a result that a destitute is, "**a person who is extremely poor and lacking the mean to provide for oneself**". I hardly wonder, whether the petitioner can be termed to fall into that category. She cannot be categorized who she has somebody to look after her. She should be grateful for them.

20. With the above observations, this Writ Petition is dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar (As)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,
Office of the District Collector,
Tuticorin District,Tuticorin.

2.The Tahsildar,
(Social Security Scheme),
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Tuticorin District.

3.The Tahsildar,
(Social Security Scheme),
Vilathikulam Taluk,
Vilathikulam,
Tuticorin District.

+1 CC to M/s.S.NATARAJAN, Advocate (SR-866[F] dated 07/01/2022)

+1 CC to M/s.SPL.GP (SR-745[F] dated 07/01/2022)

W.P (MD)No.20426 of 2021

06.01.2022

MGJ(07.02.2022) 6P 6C