



W.P.(MD)No.4667 & 4668 of 2015

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2022

CORAM+

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.4667 & 4668 of 2015

and

M.P.(MD)Nos.1, 1 & 2 of 2015

B.Annalakshmi

... Petitioner in
W.P.(MD)No.4667 of 2015

B.Muthukamatchi

... Petitioner in
W.P.(MD)No.4668 of 2015

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Madurai Limited,
Bye Pass Road, Madurai.

2.The General Manager,
Tamil Nadu State Transport Corporation,
Dindigul Division, Dindigul.

3.Prabhavathy

...Respondents in both Petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records



W.P.(MD)No.4667 & 4668 of 2015

WEB COPY

pertaining to the impugned order of the 2nd respondent dated 05.02.2015 bearing- nil in pursuance of Ref.Nos.Aatchi A2:1199, A2:1200 and quash the same as illegal and consequently directing the respondents 1 and 2 to sanction the family pension and 1/3 of share of petitioner in death and other benefits of petitioner's husband and the petitioner's father respectively along with accrued interest.

In Both Writ Petitions

For Petitioners	: Mr.R.Shankar Ganesh
For Respondents	: Mr.J.Senthil Kumaraiah Standing Counsel (R1 & R2)
	Mr.Mohamed Suhail for M/s.Ajmal Associates (R3)

COMMON ORDER

These writ petitions have been filed to quash the impugned order of the 2nd respondent, dated 05.02.2015 bearing-nil in pursuance of Ref.Nos.Aatchi A2:1199, A2:1200 and for a consequential direction to the respondents 1 and 2 to sanction family pension and 1/3rd share of the petitioner for the death and other benefits of petitioner's husband and the petitioner's father respectively along with accrued interest.

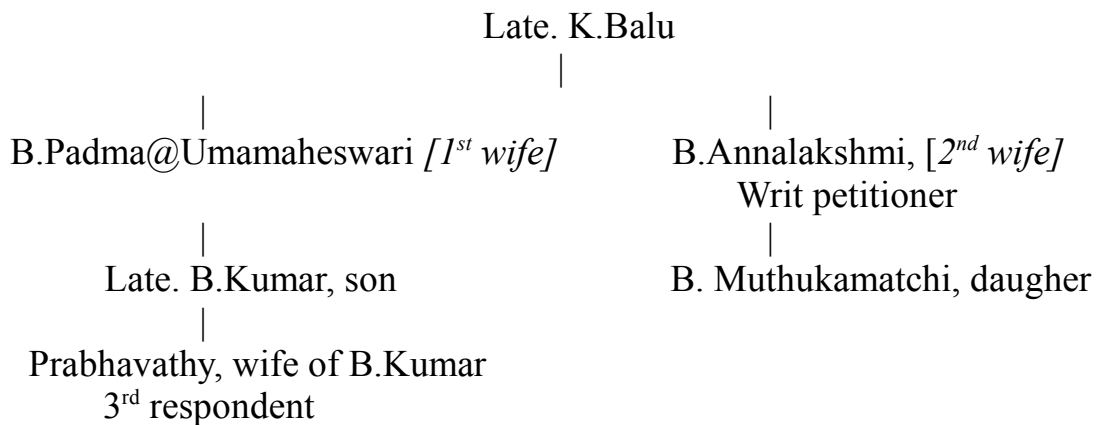


W.P.(MD)No.4667 & 4668 of 2015

WEB COPY

2. The issues involved in the writ petitions are one and the same and hence, both the Writ Petitions are taken up and this common order is passed.

3. The petitioner in W.P.(MD)No.4667 of 2015 namely B.Annalakshmi, is the second wife of the deceased employee, namely Late.K.Balu. The 3rd respondent/Prabhavathy, is the wife of Late.B.Kumar and the said B.Kumar is the son of Late.K.Balu and the B.Kumar is the son of B.Padma@Umamaheswari.



The deceased employee K.Balu was working as Driver in the respondents Corporation. The deceased K.Balu has married one Padma @ Umamaheswari. Out of this wedlock a son, namely Kumar was born on



W.P.(MD)No.4667 & 4668 of 2015

WEB COPY

01.06.1976 and later they were separated and on 07.07.2000, the said Padma @ Umamaheswari died. After the demise of the said first wife, the deceased employee had married the writ petitioner, namely B.Annalakshmi and out of the wedlock they have a daughter, namely Muthukamatchi. During the time of service, the petitioner's husband had worked until 06.06.2011 without any unblemished records. Since the deceased employee was suffering from blood pressure and diabetic, he opted for voluntary retirement from service and pending approval of his proposal, he died on 06.06.2011. The petitioner also submitted that the parents of the deceased employee also died. Therefore, the legal heirs of the deceased employee are the petitioner/B.Annalakshmi (Wife), Muthukamachi (Daughter) and B.Kumar (Son). To this effect, the Tahsildar, Uthamapalayam had issued legal heirs certificate. Hence, the petitioner claims that she is entitled to the family pension and they are equally entitled to 1/3 share of the death benefits and other benefits along with accrued interest. Since there were difference of opinion among them, they have filed a Succession Petition in S.O.P.No.6 of 2011 on the file of the Subordinate Court, Uthamapalayam and the same was decreed on 11.04.2012, declaring the said three persons as legal heirs of the deceased employee. On the basis of the above said order, the petitioner submitted an



W.P.(MD)No.4667 & 4668 of 2015

WEB COPY

application before the respondents 1 & 2. Pending the application the son namely B.Kumar died on 24.05.2013.

4. The contention of the petitioner is, on his demise his share is devolved on his wife, i.e., the 3rd respondent herein. Even though, the 3rd respondent is entitled to 1/3 share, the 3rd respondent is preventing the respondents 1 & 2 to sanction the above benefit, by claiming she is the sole legal heir and she is entitled to the entire benefits. Since, the respondents without acting on the Succession Original Petition decree, where three persons have been declared as legal heirs in not sanctioning the above benefits, but stating evasive reply. Hence, the petitioner submitted a representation on 13.01.2015. The respondents have passed the impugned order, dated 05.02.2015 and has stated that there are certain discrepancies and over writing in the decree passed by the Subordinate Court in S.O.P.No.6 of 2011 and returned the said proposal. Aggrieved over he said act of the respondents 1 & 2 the petitioner has filed this present writ petition.



W.P.(MD)No.4667 & 4668 of 2015

WEB COPY

5. The W.P(MD)No.4668 of 2015 is filed by the said daughter, namely; Muthukamatchi, claiming the same relief.

6. The 3rd respondent is objecting to grant 1/3 share to the daughter Muthukamatchi and 1/3 to B.Annalakshmi since she is the second wife and 2nd wife is not entitled to the relief.

7. The learned counsel appearing for B.Annalakshmi submitted, even though she is the second wife of the deceased Balu, she is entitled to the 1/3 benefits since she is married as a second wife, after the demise of the first wife. This contention is refuted by the learned counsel appearing for the 3rd respondent, by stating, the petitioner Annalakshmi might have been married after the demise of the first wife, but they have a 11 years old daughter on the date of marriage. Therefore, the marriage cannot be accepted. This contention was refuted by the learned counsel appearing for the petitioner by stating, there may be a relationship between the deceased Balu and Annalakshmi prior to the marriage. The first wife, After the born of the son Kumar, because of difference of opinion, the first wife and the deceased Balu were separated. Subsequently, Annalakshmi



W.P.(MD)No.4667 & 4668 of 2015

WEB COPY

was living with the said Balu, under live-in-relationship. The death of the 1st wife is on 07.07.2000. The marriage of the petitioner Annalakshmi and the deceased Balu was registered and the marriage certificate is produced before this Court, where it is stated the marriage was registered on 03.12.2000, admittedly it is after the demise of the first wife.

8. Therefore, this Court is of the considered opinion, even though, there was relationship between the deceased employee, Balu and the petitioner Annalakshmi, admittedly, they have a registered certificate and which indicates the marriage was registered, after the demise of the first wife. In such circumstances, the 2nd marriage is acceptable.

9. Accordingly, this Court is passing the following order:

(i). The terminal benefits along with accrued interest shall be disbursed as 1/3 share to all the three legal heirs. The petitioner/Annalakshmi and her daughter Muthukamatchi and the step son B.Kumar, who was born to the 1st wife are entitled to the 1/3 share, each.



W.P.(MD)No.4667 & 4668 of 2015

WEB COPY

(ii). The 3rd respondent, namely, Prabhavathy, being the legal heir of B.Kumar is entitled to 1/3 of the share.

(iii) The petitioner/B.Annalakshmi being the wife of the deceased employee is entitled to pension.

(iv) The official respondents are directed to complete the said exercise, within a period of 8 weeks, from the date of receipt of a copy of the order.

10. With the above directions, these Writ Petitions are disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
ksa

16.12.2022



WEB COPY



W.P.(MD)No.4667 & 4668 of 2015

S.SRIMATHY, J

ksa

**Common Order made in
W.P.(MD)Nos.4667 & 4668 of 2015**

16.12.2022