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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.2284 of 2016

and

W.M.P. (MD)No.2008 of 2016

G.Ramalakshmi

... Petitioner

vs

1. The Accountant General, (Account & Entitlement)
361, Anna Salai,
Chennai - 600 018.

2. The Block Development Officer,
Panchayat Union, Pudur,
Tuticorin District - 628 905.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the pertaining to the impugned order of the first respondent in Pen32/3/Pt.11340/75965, dated 06.11.2015 and quash the same as illegal and direct the first respondent to provide pension to the petitioner in the light of the decree and judgment passed in Original Suit in O.S.No.46/20, dated 18.09.2012.

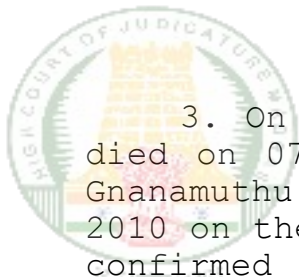
For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.P.Gunasekaran for R1
No appearance for R2

O R D E R

This writ petition is filed to quash the impugned order, dated 06.11.2015 passed by the first respondent, Accountant General.

2. The brief facts as stated in the affidavit is that the petitioner is the second wife of the deceased Gnanamuthu. The first respondent has denied the pensionary benefits on wrong interpretation of the judgment rendered in O.S. No. 46 / 2010 on the file of the District Munsif Court, Vilathikulam. The respondents have denied the benefits stating that the petitioner's marriage with the deceased Gnanamuthu cannot be accepted, since the second marriage took place while the first wife of the deceased was alive.



3. On perusal of the documents, it is seen that the first wife died on 07.08.1994 and the petitioner was married to the deceased Gnanamuthu on 19.05.1995. In the judgment rendered in O.S. No. 46 / 2010 on the file of the District Munsif Court, Vilathikulam has also confirmed the said fact. Therefore this Court is of the considered opinion that the 2nd marriage have taken place after the death of the first wife and not during the time of the first wife. Hence the impugned order is set aside to the extent that it is stating that the 2nd wife is married during the life time of the 1st wife and the 2nd wife is not eligible.

4. Therefore, this Court is of the considered opinion that the petitioner / 2nd wife is entitled to pensionary benefits and other benefits of the deceased Gnanamuthu. Therefore, the first respondent is directed to issue the pension to the petitioner in the light of judgment and decree passed in O.S.No.46 of 2020, dated 18.09.2012 on the file of District Munsif, Vilathikulam. The respondents are directed to pay the pensionary benefits with 6% interest from 2017 onwards. The second respondent is directed to re-submit the proposal along with this order to the first respondent. Thereafter, the first respondent shall disburse it within a period of four weeks from the date of receipt of a copy of this order.

5. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

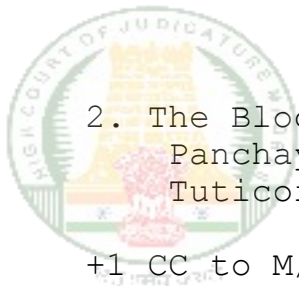
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Note:

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 Accountant General, (Account & Entitlement)
361, Anna Salai,
Chennai - 600 018.



2. The Block Development Officer,
Panchayat Union, Pudur,
Tuticorin District - 628 905.

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-10895[F] dated 09/03/2022)

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RK(31/03/2022) 3P 4C