



W.P.No.1649 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05..09..2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.1649 of 2022

Mrs.R.Suganakumari

..... Petitioner

-Versus-

- 1.The General Manager,
Ordnance Factory Varangaon,
Varangaon P.O.,
Jalgaon District,
Maharashtra – 425 308.
- 2.The Senior Accounts Officer (P),
Office of the PR Controller of Defence,
Accounts (Pension),
Draupadi Ghat,
Allahabad-211014.
- 3.The Secretary to Government of India,
Ministry of Defence,
Unit of Ordnance Factory Board,
Defence Office Complex,
KG Marg, New Delhi.

..... Respondent

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Mandamus directing the 1st respondent - General Manger, Ordnance Factory, and the 2nd respondent – Senior Accounts Officer (P), Office of the PR Controller of Defence, Accounts (Pension), Draupadi Ghat,



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Allahabad, to issue appropriate order for payment of Family Pension to the petitioner herein.

For Petitioner : *Mr.T.R.Sathiya Mohan*

For Respondent (s) : *Mr.T.L.Thirumalaisamy,
CGSC for RR1 to 3*

ORDER

This writ petition has been filed seeking a writ in the nature of mandamus directing the respondents 1 and 2 to issue appropriate order for payment of family pension to the petitioner.

2. It is the case of the petitioner that she is the wife of the deceased employee – C.Natarajan, She was married to him on 30.03.1997. They were living together for many years and through that wedlock, she gave birth to a female child on 02.06.1978 subsequently named as N.Subashini. Thereafter she was deserted and her husband did not take care of her and her minor daughter. Therefore, she had to file a petition under Section 125(1)(a) of Cr.P.C. for maintenance which was numbered as M.C.No.1 of 2017 on the file of the Family Court, The Nilgiris District. The said matter was referred to Lok Adalat and after due deliberations, a compromise was arrived at whereby, her husband had agreed and accepted to pay a sum of Rs.2,500/- as maintenance



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for her and her daughter. He was regularly paying maintenance amount to the petitioner. Her husband got retired from service on 08.08.2008 and was getting pension. He died on 03.03.2020. After his demise, being legally wedded wife of the deceased pensioner, she is entitled to get family pension. She personally approached the 1st respondent and made a request for family pension, but there was no positive response. Therefore, she was constrained to send a legal notice on 12.03.2020. Based on the same, the 2nd respondent by communication dated 27.05.2020 directed the 1st respondent to examine and give a reply. A copy of the said communication was addressed to the petitioner. Still there was no response. Therefore, she was constrained to send another legal notice on 09.11.2020 to the 1st respondent followed by another legal notice dated 28.07.2021. In the reply of the 1st respondent to the legal notice dated 28.07.2021 issued on behalf of the petitioner it was stated that the name of the petitioner was not included at the time when the husband of the petitioner made application for pension and during his life time, he did not submit any request for inclusion of the name of his wife for family pension and therefore, the office was unable to process the claim for the family pension. She cannot be denied family pension. She has been deprived of family pension which is a statutory payment on the ground that her name was not included by her husband at the



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time of submitting his application for pension. As there was no response on the request of the petitioner for family pension, she had no other go except to approach this court with the present writ petition.

3. Head both sides.

4. In the reply issued by the 1st respondent to the legal notice issued on behalf of the petitioner it is stated that the husband of the petitioner while submitting pension papers informed that they were not in good terms and they were living separately and when he had requested his wife to come and sign on pension papers he was told by his wife that she would get family pension after his demise.

5. It may be appropriate to note here that being the legally wedded wife the petitioner is entitled to get family pension on the demise of her husband. However, it is not the case of the petitioner that she had submitted necessary application for pension along with necessary documents that were required for the process of family pension. The respondents took a stand that office was unable to process family pension as claimed by the petitioner without any legal documentary from the court of law. Therefore, it would be appropriate to direct the petitioner to submit her application for family pension along with necessary documents that are required for the process of family pension to the appropriate



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authority and on receipt of the such application, the competent authority among the respondents herein shall consider the same in accordance with law and pass appropriate orders thereof within a period of three months.

In the result, the writ petition is disposed of with the above directions. No costs.

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Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To

- 1.The General Manager, Ordnance Factory Varangaon,
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- 2.The Senior Accounts Officer (P), Office of the PR Controller of Defence,
Accounts (Pension), Draupadi Ghat, Allahabad-211014.
- 3.The Secretary to Government of India, Ministry of Defence, Unit of
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N.SATHISH KUMAR.J.,

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