



WEB COPY



W.P.No.4921 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.4921 of 2020

M.Dhanam

...
/vs/

Petitioner

1. The Additional Director of Survey & Land Records,
Department of Survey & Settlement,
Survey House, Chepauk,
Chennai – 600 005.

2. The Assistant Director,
Survey & Land Records Department,
District Survey Unit,
Erode – 11.
Erode District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to

issue a Writ of Mandamus directing the respondents 1 and 2 to consider the petitioner's representation to the respondents dated 17.02.2020 to pay pensionary and terminal benefits of the petitioner's husband Mr.Mani to the petitioner.

For Petitioner ... Mr.P.Kalimuthu



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For Respondents ... Mr.G.Nanmaran
Special Govt. Pleader

ORDER

The petitioner has filed this writ petition seeking settlement of pension and terminal benefits of one Mr.Mani who she claims as her deceased husband.

2. However the learned Special Government Pleader submitted that the deceased Mani had left behind his first wife and three children and the petitioner is the second wife of the deceased Mani; the petitioner had given an application for getting pensionary benefits in which she did not state about the existence of the first wife of the deceased Mani; the fact came to be known only after receiving summons from the learned District Munsif Court, Erode in O.S.No.91 of 2001 which was filed by the first wife and her children; it is learnt that the suit has ended in compromise and in which the first wife and her children have agreed to get 60% and the petitioner and her daughter have agreed to get 40% of the terminal benefits of the deceased; however the AG raised a clarification by returning the proposal and stated that as per Tamil Nadu Pension Rules, the family pension is payable to the



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first wife and in case of two wives, the family pension is payable in equal share to first wife and eligible children of the second wife.

3. Since the petitioner and the first wife of the deceased Mani had arrived at an understanding that the pensionary benefits will be divided between two fraction at the rate of 60% and 40%, the AG has raised the above objection. From the records it is not known whether the petitioner has got any other children other than the second defendant in O.S.No.91 of 2001 and whether the second defendant or any of her children, born through deceased Mani are eligible to get pension. Only in such a case, the second respondent can consider paying pension in equal proportion between the first wife and the eligible children of second wife. In the absence of any eligible children to the second wife of the deceased employee, the pension has to be paid only in accordance with rules.

4. It is up to the respondents 1 and 2 to take a call and pass



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appropriate orders in accordance with the rules governing family pension after giving notice to both the parties involved in O.S.No.91 of 2001, within a period of four weeks from the date of receipt of a copy of this order.

5. With the above observation, this Writ Petition is disposed. No costs.

08.11.2023

Index: Yes / No
Speaking order / Non-speaking order
bkn



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To:

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Chennai – 600 005.
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R.N.MANJULA ,J.

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