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W.P.No.6963 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM :

THE HON'BLE Ms. JUSTICE R.N. MANJULA

W.P.No.6963 of 2021

S.Vanasatchi

... Petitioner

Versus

1.The Director of Pension,
259, Anna Salai, 3rd Block,
2nd Floor, Teynampet,
Chennai – 600 006.

2.The Assistant Elementary Educational Officer,
T.Pazhur, Ariyalur – 612 904.

3.The Principal Accountant General (A&E),
AG's Office Complex,
361, Anna Salai, Teynampet,
Chennai – 600 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, to direct the respondents 1 to 3 to continue to pay the family pension in favour of the petitioner in PPO.No.T48692 by applying Rule 49 of the Tamil Nadu Pension Rules, since she being the sole widow as well as nominee of Late. A. Ramdoss without reference to the 3rd respondent's proceedings made in Pen 33/2/Pt/9349/37/3576, dated 07.05.2014.



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For Petitioner : Dr. R. Sampathkumar
for Mr.M.Muthukrishnan

For Respondents : Mrs. P. Rajeshwari,
Govt. Advocate, (for R1 and R2)

: Mr. V. Vijayashankar, (for R3)

ORDER

This Writ Petition has been filed seeking a direction to the respondents 1 to 3 to continue payment of family pension in favour of the petitioner as per PPO.No.T48692 applicable under Rule 49 of the Tamil Nadu Pension Rules, since she is the sole widow nominee of Late. A. Ramdoss, without reference to the proceedings dated 07.05.2014 in Pen 33/2/Pt/9349/37/3576, made by the 3rd respondent.

2.The petitioner who claims herself as the wife of the deceased a Government Ramdoss servant, has filed this present Writ Petition, in view of the impugned order dated 07.05.2014 passed by the third respondent stopping the payment of family pension. Despite the deceased Ramdoss's first wife has been nominated by the petitioner as a nominee to receive his terminal benefits and the petitioner had also received the family pension for a period of three years, which was suddenly terminated. The Legal Heirship



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Certificate issued by the Tahsildar, Jayakondam, shows that one Rajalakshmi is the first wife and it would not show that the petitioner is the wife of the deceased Government employee / Ramdoss. The said Rajalakshmi filed O.P.No.1 of 2010, before the District Munsif Court, Jayakondam, for obtaining a Succession Certificate. But thereafter, I.A.No.2 of 2012 was filed under Order XXIII Rule 1 & 3 of the Code of Civil Procedure, to withdraw the succession original petition, since both the parties entered into a compromise between them and to that effect, the said application was allowed on 24.02.2012. During the said compromise itself, it is alleged that the said Rajalakshmi had given “no objection” to the petitioner to receive the family pension.

3.Further, the learned Government Advocate appearing for the respondents submitted that as per the Tamil Nadu Pension Rules, the second wife of a deceased Government servant is not eligible to get the family pension, if the marriage with the Government servant was held during the life time of the first wife. In the Legal Heirship Certificate dated 15.11.2007, it is specifically mentioned that the said Rajalakshmi was the first wife and she is the legal heir of the deceased Ramdoss. Now that the said Rajalakshmi also died on 30.05.2013.



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4.The controversial stand of the petitioner is that she will not get the benefits due to the death of Rajalakshmi, but the petitioner has got the duty to prove before the respondents that the said Rajalakshmi has nowhere been described as the wife of the deceased Ramdoss or she is the bride at the time of marriage with the said Ramdoss. No marriage was in subsistence with the said Rajalakshmi and Ramdoss. There is also no easy way for the petitioner to prove that she is the second wife of the deceased Ramdoss and to give a representation to the Government / respondents to relax the Rules, in order to enable her to get the pension in compliance of Section 82 of the Tamil Nadu Pension Rules.

5.In view of the above, the Writ Petition is disposed of with the following terms:-

(i) Since the said Rajalakshmi is said to be no more and that she had already given consent for the petitioner to receive the family pension, it is up to the Government to deal with the issue in an appropriate manner.

(ii) The petitioner is also at liberty to give a proper representation either to get the relaxation of Rules or she



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can also file a civil suit, to declare that she is the legally wedded wife of the deceased Ramdoss by impleading the Government authorities, who had issued the Legal Heirship Certificate dated 15.11.2007.

(iii) Since the petitioner is an aged person, the second respondent is directed to send a recommendation to the Government to consider the request of the petitioner for the family pension, in view of the “No Objection Certificate” given by the said Rajalakshmi, and also due to her subsequent death.

(iv) If the first respondent deems it fit, he can also conduct an enquiry in order to find out the actual status of the petitioner and to forward his findings to the 2nd and 3rd respondents for sanctioning the family pension and to pass an appropriate orders within a period of six weeks.

(v) However, there shall be no order as to costs.

30.10.2023

Index : Yes
Speaking order
Neutral Citation : Yes
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<https://www.mhc.tn.gov.in/judis>



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Note: Issue order copy on 08.11.2023.

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To:

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