



WEB COPY



W.P.No.8884 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.8884 of 2020

Sivakami

... Petitioner

Vs.

1.The Director General of Police,
Office of the Director General of Police,
Radhakrishnan Salai,
Mylapore, Chennai 600 004.

2.The Additional Director General of Police,
Office of the Deputy Director General of Police,
Radhakrishnan Salai, Mylapore,
Chennai 600 004.

3.S.Selvi

... Respondents

(R3 impleaded vide order dated 14.07.2023 made
in W.M.P.No.6703 of 2023 in W.P.No.8884 of 2020)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to pay all the monetary benefits including provident fund, gratuity, leave salary, bonus and other amounts payable to the petitioner's deceased husband Subramanian S/o.Alagar, Commandant, TSP II Battalion in Tamil Nadu



W.P.No.8884 of 2020

Police Department at Avadi, Chennai, to the petitioner being the legally wedded wife on the basis of the petitioner's representation dated 25.05.2020 within the time stipulated by this Court.

For Petitioner : Mr.B.Bharath Kumar
For Respondents : Mr.G.Nanmaran,
Special Govt. Pleader for R1 & R2
: Mr.A.Thirumaran for R3

ORDER

This Writ Petition has been filed seeking to issue a Writ of Mandamus to direct the respondents to pay all the monetary benefits including provident fund, gratuity, leave salary, bonus and other amounts payable to the petitioner's deceased husband Subramanian S/o.Alagar, Commandant, TSP II Battalion in Tamil Nadu Police Department at Avadi, Chennai, to the petitioner being the legally wedded wife on the basis of the petitioner's representation dated 25.05.2020 within the time stipulated by this Court.

2. Heard Mr.B.Bharath Kumar, learned counsel for the petitioner and Mr.G.Nanmaran, learned Special Government Pleader for the respondents 1 and 2 and Mr.A.Thirumaran, learned counsel for R3.



W.P.No.8884 of 2020

3. The petitioner who claimed to be the first wife of the deceased Government employee Subramani has filed this Writ Petition seeking a direction to the respondents to pay all the monetary benefits and all other retirement benefits payable to the deceased employee in her capacity as his first wife. According to the petitioner, the deceased Government employee had illicit intimacy with the third respondent and she is no way related to the petitioner out of any legal marriage.

4. According to the third respondent, the petitioner divorced the deceased employee as early as in the year 2002 in HMOP.No.1 of 2002. The third respondent believing the words of the deceased that he was a bachelor and married him in the year 1987. Even though the order of divorce came into effect only on 03.07.2002, in all official records, the deceased Subramani has shown the third respondent as his wife / nominee. The deceased Subramani retired from service on 30.04.2020 and died on 01.05.2020.



W.P.No.8884 of 2020

5. The learned counsel for the third respondent submitted that the marriage between the petitioner and the deceased Subramani was dissolved by the order of the Sub Court, Ramnad dated 03.07.2002 in HMOP.No.1 of 2002. Even though the petitioner claims that her marriage with the deceased Subramani continued, no documents has been produced to show that the order of divorce passed against her on 03.07.2002 was set aside. As on date when Subramani retired and died subsequently, there was no subsisting marital relationship between the petitioner and the deceased. So far as the third respondent is concerned, she has married the deceased Subramani on 25.11.1987. However it is the contention of the third respondent that she was made to believe that the deceased Subramani was a Bachelor.

6. It is submitted by the learned counsel for the third respondent that the petitioner who was keeping quite all along and after the death of Subramani, had suddenly and filed this Writ Petition. The petitioner do not have any status of wife with the deceased Subramani at the time when he died. The marriage of the third respondent with the deceased employee



W.P.No.8884 of 2020

had taken place with good faith without knowing the marital dispute between the petitioner and the deceased. Since the petitioner herself has got no legal status as a wife of the deceased, she should not be allowed to cause unnecessary confusion after the life time of the deceased Government employee.

7. Though the rule states that if a Government servant marries a woman during the subsistence of his first marriage, she is not eligible to get the family pension and all other attendant benefits. That can be distinguishable with the different facts involved in this case. If the objection is raised by the person whose marriage is in subsistence with the deceased employee, then that can be viewed with little more seriousness. So far as the third respondent is concerned, she believed that the deceased Subramani was a bachelor and her marriage with the deceased was her first marriage. She did not knowingly venture to marry a person whose marriage with an another person was subsisting. That can also be true in the given circumstances where the petitioner did not appear in the life of the deceased at any point of time during her life time



W.P.No.8884 of 2020

and also their marriage was dissolved by the order of this Court. In the fitness of things, the nomination given by the deceased employee should also be honoured. Therefore, the respondents 1 and 2 can act accordingly in deciding the person who is competent enough to get the benefits of the deceased employee.

8. In the result, this Writ Petition is disposed and the respondents 1 and 2 can act accordingly in deciding the person who is competent enough to get the benefits borne with the deceased employee. No costs.

10.11.2023

Index : Yes

Internet : Yes/No

gsk



W.P.No.8884 of 2020

WEB COPY

To

- 1.The Director General of Police,
Office of the Director General of Police,
Radhakrishnan Salai,
Mylapore, Chennai 600 004.
- 2.The Additional Director General of Police,
Office of the Deputy Director General of Police,
Radhakrishnan Salai, Mylapore,
Chennai 600 004.



WEB COPY



W.P.No.8884 of 2020

R.N.MANJULA, J.

gsk

W.P.No.8884 of 2020

10.11.2023