



W.P.No. 14726 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No. 14726 of 2018

S. Jayam

... Petitioner

Versus

1. The Commissioner of Labour
DMS Campus, Teynampet,
Chennai - 600 006.
 2. The State Accountant General
Accountant General Office Complex,
No.361, Annasalai,
Teynampet, Chennai - 600 006.
 3. Thamayanthi
 4. Udhayachandru
- ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 & 2 to consider and pass appropriate orders on the representation of the petitioner dated 18.12.2017.



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For petitioner : Mr.T. Gobinath
For R1 : Mr.T.Chezhan
For R2 : Mrs.J. Sreevidhya
For RR 3 & 4 : Mr.M. Ganesan

ORDER

This Writ Petition is filed seeking for the issuance of Writ of Mandamus, direct the respondents 1 and 2 to consider the representation of the petitioner dated 18.12.2017 and pass appropriate orders.

2. The grievance of the petitioner is that the husband of the petitioner worked as Labour Officer under the first respondent in Cuddalore District. While he was in service, her husband by named Sinthanaiselvan died on 19.10.2013 leaving behind herself, two daughters and one son as his legal-heirs. After the demise of her husband, the petitioner has approached the District Labour Officer, Villupuram, requesting to sanction family pension as well as terminal benefits since she is one of the legal-heirs of the deceased. Meanwhile, the respondents 3 and 4 have approached the first respondent requesting to sanction family pension and terminal benefits of the deceased. Subsequently, the petitioner has produced all the relevant



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documents in respect of "legal-heirs certificate" of the deceased to the 1st respondent and the same were forwarded to the 2nd respondent by proceedings dated 01.06.2015. Pursuant to the same, the 2nd respondent sought clarification regarding the "legal-heirs certificate" of the petitioner's daughter and the same was produced to the 2nd respondent for getting family pension/terminal benefits. Following the series, the petitioner sent a representation dated 18.12.2017 to the respondents herein, requesting them to sanction family pension and terminal benefits of the deceased. Till date, no steps have been taken by the respondents in this regard. Therefore, the petitioner has come forward with the present writ petition.

3. Counter affidavit has been filed on behalf of the 2nd respondent wherein, it has been stated that the rival claim had been made by another person one 3rd respondent through her Advocate by notice dated 31.10.2013, stating that she is the legally wedded wife and her son, 4th respondent herein, are the first class legal-heirs of the deceased Government Servant, namely, Sinthanaiselvan and she informed to the first respondent no action should be taken to make payment regarding family pension and other terminal benefits to the petitioner herein. Whereas, in



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the Service Register of the deceased Government Servant, the petitioner name had been mentioned as his wife. As per the provisions of Tamil Nadu Pension Rules, 1978, the family pension had to be shared equally between the first wife and children born through 2nd wife. As there is a rival claim and the respondent office is vested with the authority of authorizing pensionary benefits in respect of the retired/deceased Tamil Nadu Government Employees as per various provisions of Tamil Nadu Pension Rules and the respondent office returned the proposals by proceedings dated 12.06.2015, requesting to clarify who is the legally wedded wife of the deceased Government Servant along with necessary documents to produce before the respondents herein to proceed further as per Rules in existence. Hence, the 2nd respondent pray to dismiss the above writ petition.

4. Heard both sides and perused the materials available on record.

5. On a perusal of the petition as well as counter averments, it reveals that the rival claim between the parties cannot be adjudicated in the present writ petition. As disputed questions of facts are involved in the



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writ petition, the parties are hereby relegated to the competent Civil Court and to file a suit for getting appropriate relief. After obtaining appropriate orders from the competent Civil Court, the petitioner shall submit a representation along with relevant documents to the respondents and after receiving the representation from the petitioner, the respondents shall consider the same and pass appropriate orders thereon.

6. With the above observation, the writ petition is dismissed. There shall be no order as to costs.

29.03.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
ssi

To

1. The Commissioner of Labour
DMS Campus, Teynampet, Chennai - 600 006.
2. The State Accountant General
Accountant General Office Complex,
No.361, Annasalai, Teynampet, Chennai - 600 006.

V.BHAVANI SUBBAROYAN, J.



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