



WEB COPY



W.P.No.18342 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.18342 of 2020

T.Deivayee

... Petitioner

Vs.

1.The Director,
Local Fund Audit Department,
Integrated Complex for Finance
Department, 4th Floor,
Nandanam, Chennai 600 035.

2.The Block Development Officer,
Thovalai Panchayat Union,
Boodapandi Post,
Kanniyakumari District.

3.The Tahsildar,
Boodapandi Taluk,
Kanniyakumari District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents 1 and 2 to disburse the Family Pension and other death benefits to the petitioner, in view of the death of her husband N.Thiraviyam on 02.11.2019 by considering her application dated 26.11.2019.



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For Petitioner : Mr.C.A.Ramanan for
Mr.N.Manoharan
For Respondents : Mr.G.Nanmaran, Spl.Govt. Pleader for R1&R3
Mr.T.Arunkumar, GA for R2

ORDER

This Writ Petition has been filed seeking issuance of Writ of Mandamus to direct the respondents 1 and 2 to disburse the Family Pension and other death benefits to the petitioner, in view of the death of her husband N.Thiraviyam on 02.11.2019 by considering her application dated 26.11.2019.

2. Heard Mr.C.A.Ramanan, learned counsel for the petitioner and Mr.G.Nanmaran, learned Special Government Pleader appearing for the respondents 1 and 3 and Mr.T.Arunkumar, learned Government Advocate for R2.

3. The petitioner is said to be the wife of the deceased Thiraviyam who retired from service as Gang Mazdoor from the second respondent Union after attaining the age of superannuation. Thereafter, he was getting pension and died on 02.11.2019. Despite submitting



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representation, the petitioner is not able to get family petition till now.

Therefore, this Writ Petition has been filed with the above prayer.

4. The learned counsel for the petitioner submitted that the petitioner was required to submit the relevant documents like legal heirship certificate, certificate to show no remarriage for the petitioner, counter signature of the second respondent in all the enclosed documents. The learned counsel further submitted that except the legal heirship certificate, all other formalities have been done. It is also submitted that the legal heirship certificate has not been given in view of the non co-operation of the children of the first wife of late Thiraviyam. The petitioner was married to Thiraviyam after his first wife died and through her there are two children. Without the co-operation from the first wife's children, the petitioner is not able to produce the legal heirship certificate and the respondents insisted to produce the said certificate which is an impossible thing for the petitioner.

5. The fact that the petitioner was married to Thiraviyam and she was the legally wedded wife of Thiraviyam is not denied by the



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respondent Department. It has been already held in the Full Bench of this Court in the case of ***P.Venkatachalam and Ors. Vs. The Tahsildar, Kumarapalayam Taluk, Namakkal and Ors. in W.P.Nos.25247 of 2021 etc.,*** that the legal heirship is a status governed by the respective personal law of parties through various statutes. The relevant portion of the order of the Full Bench of this Court are extracted hereunder:

"65.

A.Legal heirship is a status governed by the respective personal law of parties through various statutes. The certificates issued by the Tahsildar amount to nothing more than a relationship certificate reflecting the opinion of the Tahsildar as to the relationship of the applicant and others named therein with the deceased. Consequently, the certificate issued by the Tahsildar does not affect the legal right of any party and has no bearing on the status of a legal heir which is conferred on an individual under his / her personal law."

6. Since the petitioner is deprived of family pension and she is not able to get the legal heirship certificate, the respondents shall consider the petitioner's representation dated 26.11.2019 sympathetically and do



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the needful after verifying the genuineness of her claim within a period of four weeks.

7. In the result, this Writ Petition is disposed and the respondents are directed to consider the petitioner's representation dated 26.11.2019 sympathetically and do the needful after verifying the genuineness of her claim within a period of four weeks from the date of receipt of a copy of this order. No costs.

12.10.2023

Index : Yes
Internet : Yes/No
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R.N.MANJULA, J.

gsk

To

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