



WEB COPY



W.P.No.19797 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.19797 of 2020 and
W.M.P.No.24464 of 2020

R.Kalavathy

... Petitioner

Vs.

1.The Accountant General,
O/o. Accountant General,
(Accounts and entitlements),
Tamil Nadu, 361, Anna Salai,
Chennai 600 018.

2.The Headmaster,
Government Boys Higher Secondary School
Kurinjipadi,
Cuddalore District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records bearing No.PEN11/unit5/PT10390/2019-20 dated 27.01.2020 passed by the first respondent and quash the same as illegal and further direct the first respondent to give pension to the petitioner till her lifetime.

For Petitioner : Ms.S.Divya for
Mr.A.Ansar

For Respondents : Mr.V.Vijayashankar for R1



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Mr.G.Nanmaran, Special Govt. Pleader for R2

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ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus, to call for the records bearing No.PEN11/unit5/PT10390/2019-20 dated 27.01.2020 passed by the first respondent and quash the same as illegal and further direct the first respondent to give pension to the petitioner till her lifetime.

2. Heard Ms.S.Divya, learned counsel for the petitioner and Mr.V.Vijayashankar, learned counsel for R1 and Mr.G.Nanmaran, learned Special Government Pleader for R2.

3. It is claimed by the petitioner that her marriage with the deceased employee had taken place in the year 1991. Even according to the submission made by the petitioner, the marriage of the petitioner was taken place when the first wife was alive.

4. The learned Special Government Pleader appearing for the



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respondents submitted that according to the Pension Rules, the second wife of the Government Servant whom he married during the life time of the first wife is not entitled to get the family pension. Since the marriage itself is illegal, the second wife of the Government Servant was not allowed to get pension which would in a way indirectly amount to accepting the illegal marriage. The position on this point has already been settled in the judgment of the learned Division Bench of this Court in ***W.A.(MD) No.152 of 2022 dated 25.04.2022*** (which has been filed challenging the order passed in W.P.(MD) No.19711 of 2017 dated 27.02.2019) wherein it is held as under:

"16. In the case on hand, in the absence of any material to substantiate the claim of the appellant, we do not find any reason to cause interference with the judgment of the learned Single Judge. To confer the status of second wife, the appellant is under an obligation to prove the marriage and it should be a valid marriage and not during the life time of the first wife. The material to that effect has not been produced, rather a perusal of the charge memo shows allegation of second marriage against the erstwhile government servant during the life time of the first wife and that



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makes the marriage illegal and therefore, the claim of the appellant seeking family pension as second wife cannot be accepted.

17. With the aforesaid discussion, we do not find any ground to interfere in the order passed by the learned Single Judge. Accordingly, the Writ Appeal is dismissed. No costs. "

5. The death of the first wife in the year 1998 will not legalise the marriage of the petitioner which had taken place when the first wife was alive. So, according to the Pension Rules, the second wife of the deceased Government servant is not eligible to receive the family pension.

6. With the above observations, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

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

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