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WP.No.27045 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

WP.No.27045 of 2022

M.Eswari

.. Petitioner

Versus

The Managing Director
Metropolitan Transport Corporation
(Chennai) Limited
Pallavan House, Anna Salai
Chennai – 600 002

.. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the Letter No.632 / சபி (நீந) 5 / மா.போ.க / 2022 dated 21.06.2022 and quash the same and further directed the respondent along with disbursement of the arrears of applicable family pension forthwith.

For Petitioner : Mr.R.Sathyamurthy
For Respondents : Mr.A.Vinoth Raj

ORDER

This writ petition has been filed challenging the Letter Letter No.632 / சபி (நீந) 5 / மா.போ.க / 2022 dated 21.06.2022 rejecting the family pension to the petitioner.



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2. The petitioner is the second wife married to one Mr.Mohan, who was working as a Conductor. While he was in service, he died on 04.03.2018. Earlier, during his lifetime, he was married to one Rajeshwari and that marriage was dissolved by a decree of divorce dated 01.04.2004 passed in FCOP.No.18 of 2023 by the I Additional Principal Family Judge, Chennai. Thereafter, according to the petitioner, she has married her husband namely Mr.Mohan. Therefore, she is legally entitled for family pension. She was initially paid with the family pension of Rs.11,822 on 03.11.2018 and 10.12.2018. Thereafter, subsequently, the family pension has been stopped. Challenging the same, she filed a writ petition in W.P.No.12046 of 2022. This Court, by Order dated 06.05.2022 directed the respondents to consider the representation of the petitioner dated 13.04.2022 with regard to the payment of family pension along with arrears and pass necessary orders on merits and as per law, after affording opportunity to the petitioner as well as any other interested parties, within a period of six weeks from the date of receipt of a copy of that order.

3. Now, once again, the impugned order has been passed holding that prior to the divorce with the first marriage, the petitioner has married the deceased Mohan. Therefore, the marriage is not valid and the family pension is



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not maintainable.

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4. Mr.A.Vinoth Raj, learned Advocate takes notice for the respondent. According to him, even in a Marriage Certificate registered in respect of the second marriage on 05.06.2014 the date of solemnisation of marriage is shown as 20.02.2004 which is much prior to the divorce. Therefore, the authorities had rightly rejected the family pension to the petitioner.

5. Heard both sides and perused the materials placed on record. It is not disputed that the marriage with the first wife is dissolved legally on 01.04.2004. The fact that the petitioner is married and treated as wife is also not in dispute. The second marriage is also registered under the Hindu Marriage Act on 05.06.2014. Now, the respondent had just taking cue from the entry in the Marriage Register to the effect that the marriage was solemnised on 20.02.2004 and has non suited the petitioner. The fact remains that the marriage with the first wife is already dissolved and the petitioner is married legally with the deceased. Such view of the matter, when the first marriage is already dissolved, the respondent on technical ground cannot non suit the petitioner merely on the ground that there is a discrepancy in the date of



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marriage certificate. Even on earlier occasion, the service register is also changed on the basis of the application given by the deceased.

6. Such view of the matter, when the petitioner is already been treated as wife and even assuming that second marriage is not valid before the divorce, the fact remains that after the divorce, they registered the marriage and they were leading as husband and wife.

7. Such view of the matter, this Court is of the view that the petitioner is the legally wedded wife of the deceased/Mr.Mohan. Accordingly, the impugned order is set aside and the respondents are hereby directed to pay the family pension along with the arrears to the petitioner within a period of four weeks from the date of receipt of a copy of this Order.

8. With the above, this writ petition stands allowed. No costs.

04.08.2023

dhk

Index:Yes/No

Internet:Yes/No

Neutral Citation:Yes/No



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To

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N.SATHISH KUMAR, J.

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