



W.P.No.24874 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

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M.Bagiyalakshmi

...Petitioner

Vs

1. The Principal Accountant General (A & E)

Office of the Accountant General

Tamilnadu, No.361, Anna Salai

Chennai – 600 018

2. The Block Educational Officer

Nemili, Ranipet District – 631 051

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Letter No.P16/2/11628695/ADK dated 12.04.2022 issued by the first respondent and quash the same and consequently direct the first respondent to provide family pension to the petitioner.

For Petitioner : Mr.S.Patrick

For Respondents : Ms.Hema Muralikrishnan
Senior Standing Counsel for R1

Mr.T.Chezhiyan
Additional Government Pleader for R2

ORDER



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WEB COPY The petitioner M.Bagiyalakshmi is the wife of Late S.Sivaraj, who died on 05.01.2019 leaving behind the petitioner and her two children as his legal heirs. When the petitioner had applied to the Accountant General of India seeking for family pension, her claim was rejected on 12.04.2022 stating that the service records of her husband evidences the name of the petitioner as Kairunnisa and therefore, directed the petitioner to produce Gazette notification declaring that she has changed her name from Bagiyalakshmi to Kairunnisa. Challenging the said order, the present writ petition has been filed.

2. The learned counsel for the petitioner submitted that the petitioner had never officially changed her name to Kairunnisa and that original name of her husband alone was Mohamed Zeherudin, which was later changed into Sivaraj on conversion to Hinduism and merely because he has recorded the petitioner's name as Kairunnisa will not change her name.



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3. Per contra, learned Standing counsel for the Accountant General submitted that in the service records of the petitioner's husband, the petitioner has signed her name as Kairunnisa whereas the Identity Card issued by the Election Commission of India refers to her name as Bakkiyalakshmi, wife of Sivaraj.

4. According to the learned counsel for the petitioner, the petitioner's husband had officially changed his name from Mohamed Zeherudin to S.Sivaraj on 15.10.2016 which is evidenced in the Gazette Notification dated 26.10.2016 and since there is a discrepancy in name in the Identity Card issued by the Election Commission of India in 1997, respondents have sought for a Gazette Notification.

5. I carefully considered the submissions of learned counsel appearing on either side.



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6. The petitioner's husband was originally known as Mohamed Zeherudin.S. Thereafter, he had embraced Hinduism and had been practising the religion. He has also changed his name to S.Sivaraj. At the time of his entry into the service, his name was Mohamed Zeherudin as found in the service record. He married the petitioner herein in the year 1994 and by a mutual arrangement between them, he had been calling the petitioner in the name of Kairunnisa. Thereafter, the petitioner's husband had embraced Hinduism and changed his name to Sivaraj, but had not officially changed his name at the relevant point of time. However, when the Identity Card was issued by the Election Commission of India in the year 1997, he had changed his name, though not officially, to S.Sivaraj thereby his name was reflected in the ID card as Sivaraj. The petitioner's husband had thereafter officially declared his name as S.Sivaraj through a Gazette notification dated 26.10.2016. In view of these developments, name of the petitioner has been reflected differently in the service records and the Identity card issued by the Election Commission of India.

7. When these discrepancies had prevented the petitioner from seeking Family Pension, she had approached the Tahsildar,



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Kancheepuram seeking for a certificate with regard to declaration of her name. Accordingly, the Tahsildar through the proceedings 2213/2019/A6 dated 21.09.2021 issued a certificate declaring that Bagiyalakshmi, wife of Sivaraj and Kairunnisa are one and the same person, in accordance with the enquiry conducted by the Village Administrative Officer and Deputy Tahsildar.

8. When the petitioner has not officially changed her name to Kairunnisa at any point of time but has also gone under her alias name Kairunnisa, her name as per records is to be construed as only M.Bagiyalakshmi. Merely because she has signed her name as Kairunnisa in the service records, which is also her alias name, will not lead to a conclusion of her name as Kairunnisa since at no point of time, she had officially declared change of her original name. When the revenue authorities have also conducted an enquiry to ascertain the name of the petitioner and have declared both the names of Bagiyalakshmi and Kairunnisa to be one and the same person, I do not find any difficulty in issuing a direction to the respondents to disburse the family pension to the petitioner herein, without insisting for any official gazette notification.



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9. In the light of the above observations, the impugned order dated 12.04.2022 is quashed and consequently first respondent is directed to pass appropriate orders extending the benefit of family pension to the petitioner together with all the arrears of pension. Such orders shall be passed, at least within a period of four weeks from the date of receipt of a copy of this order. No costs.

23.11.2023

Index:Yes
Speaking order
gpa

To

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M.S.RAMESH,J.

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