



W.P.No.28296 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.28296 of 2023

Manohari

... Petitioner

Vs.

1. The Principal Chief Head Conservator of Forests,
Head of Forest Force Office,
Panagal Maaligai, Saidapet,
Chennai – 15.

2. The District Forest Officer,
Kodaikkanal Forest Division,
Dindigul.

3. The Accountant General of Tamil Nadu,
Pension and Entitlement Department,
No.361, Anna Salai,
Teynampet,
Chennai – 600 018.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents to sanction and disburse the family pension for the Civil Death of petitioner's husband Ramasamy (Forester) missing from 27.11.2017 based on the representation dated 08.11.2019.



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For Petitioner : Mr.S.Sukumar

For Respondent
Nos.1 & 2 : Mr.S.Arumugham
Government Advocate

ORDER

This writ petition has been filed to direct the respondents to sanction and disburse the family pension to the petitioner for the civil death of the petitioner's husband Ramasamy (Forester) missing from 27.11.2017, based on the representation dated 08.11.2019.

2.It is the case of the petitioner that her husband retired from the respondent Department on attaining the age of superannuation in the year 2002. Thereafter, he had been receiving pension. While so, on 27.11.2017, the petitioner's husband went missing and a case was also lodged by the petitioner for “man missing” and subsequently, a Habeas Corpus Petition in H.C.P.No.2019 of 2018 was also filed. However, recording the statement of the Police that the petitioner's husband is not traceable despite efforts, the Habeas Corpus Petition was closed on 22.07.2019. It is the contention of the petitioner that, since the whereabouts of the petitioner's husband is not known for more than 6



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years and the petitioner is finding it very difficult to meet out the family expenses, the petitioner seeks for family pension deeming to declare her husband as dead (civil death). In this regard, the petitioner has submitted her representation to the respondents on 08.11.2019. Since the same was not considered, the present writ petition has been filed.

3.Heard the learned counsel for the petitioner and Mr.S.Arumugham, learned Government Advocate, who takes notice for the respondents 1 and 2.

4.At the outset, it is seen that the petitioner's husband is said to have been missing for a period of only six years. Even for assuming civil death, the whereabouts of the missing person should be unknown for more than 7 years. In such view of the matter, the petitioner cannot maintain a writ petition at this stage. It is for the petitioner to establish the civil death of her husband before the competent Civil Court under Section 108 of the Indian Evidence Act and thereafter, file necessary application before the concerned authorities seeking family pension.



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5. With the above observations, this writ petition stands dismissed. No costs.

29.09.2023

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order

To

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Chennai – 15.
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N. SATHISH KUMAR, J.
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