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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2023

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THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.9134 of 2017

and

W.M.P.Nos.10058 of 2017 and 1359 of 2018

Manoranjitha Mary @ D. Ranjitham

.. Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep.by its Principal Health Secretary,
Health and Family Welfare Department,
Chennai – 600 009.

2.The Dean
Government Mohan Kumaramangalam
Medical College Hospital,
Salem – 636 001.

3.The Accountant General (A&E),
Tamil Nadu,
261, Anna Salai,
Chennai – 600 018.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent with regard to the orders passed in Ref. Na.



Ka. No.3662/NE8/2016 dated 29.07.2016 and to quash the same and direct the respondents to grant family pension and for payment of arrears of family pension to the petitioner from 23.04.2015, the day following the date of the death of the petitioner's husband.

For Petitioner .. Mr. S. Gopi

For Respondents .. Mr. K. Surendaran, AGP

ORDER

The Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records of the 2nd respondent, the Dean, Government Mohan Kumaramangalam Medical College Hospital at Salem in Na.Ka.No.3662/NE8/2016 dated 29.07.2016 and to quash the same and direct the respondents to grant family pension and arrears of family pension to the petitioner from 23.04.2015 consequent to the death of her husband, M. Sankaran.

2. When the Writ Petition was filed in the year 2017, the petitioner was aged about 73 years. She claimed that she had married M. Sankaran on 01.05.1972 in his house at Mettur. Three children were born out of their wedlock namely, S. Sasikumar, S. Dhamodharan and S. Prakash. As



additional documents, the learned counsel for the petitioner had produced the Transfer Certificate of S. Sasikumar and S. Dhamodharan wherein, the name of M. Sankaran is reflected as the father and also, the passport of S. Dhamodharan, wherein, the name of the mother is given as Ranjitha Mary, the petitioner herein. The learned counsel for the petitioner also produced the passport of the third son, S. Prakash, wherein, the name of the mother is given as Ranjitha Mary, the petitioner herein. The learned counsel also produced the patta granted consequent to the death of M. Sankaran, wherein, the petitioner's name was the first and there are also the names of three sons. It is also seen that the petitioner herein had an occasion to file O.P.No.4 of 1983 in O.S.No.276 of 1983 before the District Munsif Court at Mettur seeking maintenance as against her husband, M. Sankaran. She was not the only plaintiff but the three sons who were minors were also plaintiffs and she had represented them as guardian. Maintenance was granted by the learned District Munsif. It was also contended in the affidavit that her husband has been paying the maintenance amount to the petitioner herein. Thereafter, the husband had taken a decision to avail voluntary retirement and was permitted to retire on 31.01.2001. He was receiving pension till the date of his death 22.04.2015.



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3. On his death, the petitioner given a representation for receiving family pension. That was rejected by the 2nd respondent claiming that the husband M. Sankaran was nominated only his three sons in his service register and not mentioned the petitioner's name. Now the documents stares in the face of the 2nd respondent. The passport of the second son shows his mother is the petitioner herein and the father is M. Sankaran. Once that relationship had been established, the order of the 2nd respondent, has to be necessarily set aside by this Court.

4. The learned Additional Government Pleader on behalf of the respondents pointed out the counter affidavit filed, wherein, the petitioner herein had applied to the District Revenue Officer seeking Destitute Certificate and also obtained Government Job. It is practical that she had categorized herself as destitute particularly, when her husband died and three of her sons also should be quite profitably employed, owing to the fact that, two of them have passport with them. It would only reflect that she was deserted not only by her husband but also effectively by her three sons.



5. Therefore, I find that the fact that she had obtained destitute certificate should not be held against her. That she had obtained Government job also should not be held against her. She has every right to seek employment and to work. She has also every right to receive pension by exercising her right as the widow of M. Sankaran. There are no documents produced that the marriage had been frustrated by any Court decree. She remains his wife on the death of her husband and subsequently has a vested right over all his interests. One document reflecting that particular right is the patta and the patta of the property which stood in the name of her husband had been transferred to her name and to the names of the three sons.

6. In view of these facts, the impugned order is set aside and a direction is given to the 2nd respondent to forthwith pay the pension benefit to the petitioner herein and also all necessary arrears within a period of six weeks from the date of receipt of a copy of this order, failing which the petitioner would be entitled to file further application before this Court seeking interest on delayed payment. The 2nd respondent should not have stood on technicalities in this issue, particularly as a medical professional, he should



be understood the plight of an ordinary lady. This Writ Petition is allowed.

No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

07.08.2023

Index:Yes/No
Internet:Yes/No
Neutral Citation:Yes/No
Speaking order: Yes/No
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To

- 1.The Principal Secretary,
Health and Family Welfare Department,
Chennai – 600 009.
- 2.The Dean
Government Mohan Kumaramangalam
Medical College Hospital,
Salem – 636 001.
- 3.The Accountant General (A&E),
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C.V.KARTHIKEYAN,J.

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