



W.P(MD)No.18046 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.10.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.18046 of 2023

and

W.M.P(MD)No.15058 of 2023

M.Maheswari

... Petitioner

Vs.

1.The Principal Accountant General(A&E),
No.361, Anna Salai, Chennai-18.

2.The Divisional Engineer,
Divisional Engineer Office,
National Highways Department,
Dindigul.

3.The Assistant Divisional Engineer,
National Highways, Dindigul.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Na.Ka.No. 07/2023/தேநெ/உஇ dated 07.06.2023 on the file of the 3rd respondent and quash the same.

For Petitioner : Mr.K.Vinoharan



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For R1 : Mr.P.Gunasekaran

For R2 & R3 : Mr.T.Villavan Kothai
Additional Government Pleader

ORDER

The present writ petition has been filed challenging the order passed by the 3rd respondent herein wherein the request of the writ petitioner for grant of family pension has been rejected on the ground that it has been filed belatedly.

2. The writ petitioner's father was working as a Mazdoor in Dindigul National Highways Sub Division and he passed away on 13.12.2005. The mother of the writ petitioner was also working as a Mazdoor in the same Sub Division and she passed away in the year 1988. The petitioner's husband had passed away in the year 2016.

3. The petitioner had made an application seeking family pension on the ground that she is the widowed daughter of the pensioner. However, the said request has been rejected under the impugned order, dated 07.06.2023 on the ground that the said application has been belatedly filed.



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4. Heard Mr.K.Vinoharan, learned counsel appearing for the petitioner, Mr.P.Gunasekaran, learned Standing Counsel for the 1st respondent and Mr.T.Villavan Kothai, learned Additional Government Pleader appearing for the respondents 2 and 3.

5. The request for family pension is a continuing cause of action and therefore, the reason assigned in the impugned order for rejection of family pension is not legally sustainable. However, the writ petitioner is entitled to receive family pension either as a legal heir of the father or the mother, but she is not entitled to receive family pension through both of them. The learned counsel for the writ petitioner has also brought to the notice of the Court that G.O.Ms.No.325, Finance (Pension) Department, dated 28.11.2011 wherein provisions have been made for grant of family pension to the widowed daughter of the pensioner, even if she had crossed the age of 25 years.

6. Therefore, this Court is of the considered opinion that the order impugned in the writ petition is not legally sustainable. Accordingly, the order is set aside and the matter is remitted back to the file of the 3rd respondent herein to consider the request of the petitioner in the light of



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G.O.Ms.No.325, Finance (Pension) Department, dated 28.11.2011 and

G.O.Ms.No.337 Finance (Pay Cell) Department, dated 14.11.2017. The

3rd respondent is directed to pass orders within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

04.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

1.The Principal Accountant General(A&E),
No.361, Anna Salai, Chennai-18.

2.The Divisional Engineer,
Divisional Engineer Office,
National Highways Department,
Dindigul.

3.The Assistant Divisional Engineer,
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R.VIJAYAKUMAR ,J.

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Order made in
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