



W.P.(MD)No.25134 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2023

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.25134 of 2018

Arumugathammal

... Petitioner

vs.

1.Head Quarters,
Border Security Force,
PO: Narayanpur,
District: Malda (West Bengal)-732 141.

2.Government of India,
Ministry of Home Affairs,
Directorate General Security Force,
Pay and Account Division,
Pension-iii Section, Pushpa Bhawan,
Madangi, New Delhi-100 062.

3.Directorate General,
Border Security Force,
Block No.10, CGO Complex,
Lodhi Road, New Delhi-110 003.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to release and disburse the petitioner's family pension with effect from 01 August 2006 to till date after revised as per 6th and 7th pay commission with arrears and suitable interests.

For Petitioner : Mr.Jeyakarthik

For Respondents : No appearance

ORDER

This writ petition was filed for issuance of writ of Mandamus, to direct the respondents to release and disburse the petitioner's family pension with effect from 01 August 2006 to till date after revised as per 6th and 7th pay commission with arrears and suitable interests.

2.The petitioner married one E.Perumal. While the said E.Perumal was serving in the Border Security Force, he died in the month of November 1991. After the death of the petitioner's husband, the petitioner was receiving family pension, vide Director General Border Security Force, New Delhi Payment order No.240559111143, dated 07.08.1991, regularly up to 04.07.2006, through State



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Bank of India, Nanguneri (1021) Branch SB AC No.11200613123. Subsequently, the respondents suddenly stopped paying the family pension. The petitioner submitted an application seeking information. The respondents sought certain required documents. The petitioner submitted all the required documents as demanded by the respondents. However, there was no reply. Hence, the petitioner submitted a detailed representation on 21.07.2018. The petitioner was running pillar to post for the past 12 years.

3.The contention of the petitioner is that since the petitioner has remarried the brother of the late husband, the respondents have stopped the pension. But according to the respondents' own rules, widow remarriage is entitled to the pension and the relevant portion of the rule is extracted here under:

“12-A Family pension in case of remarriage of widow

Notwithstanding anything contained in clause (i) of sub-rule (2) of Rule 12, a widow of an employee who re-marries her deceased husband's brother and continues to live a communal life with, or contributes to the support of the other dependents of the deceased shall not be disqualified



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for the grant of extraordinary pension, otherwise admissible to her under these rules.”

4. After perusing the above rule, this Court is of the considered opinion that the respondents have erred in stopping the family pension. Therefore this Court is directing the respondents to consider the case of the petitioner in the light of Rule 12 A, where it is directed to grant family pension in the case of remarriage of widow. The petitioner is fulfilling all the conditions thereunder. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

5. With the above said observation, the writ petition is allowed. No costs.

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

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