



W.P.(MD)No.1951 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1951 of 2016

and

W.M.P.(MD) No.1717 of 2016

R.Akilambal

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Agriculture Department,
Fort St.George,
Chennai – 9.

2. The District Collector,
Trichy District.

3.The Joint Director,
Agriculture Department,
Trichy – 20.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records relating to the impugned letter No.A3/3809/12 dated 18.07.2013 passed by the 3rd



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respondent and quash the same and consequently direct the 3rd respondent to sanction family pension to the petitioner.

For Petitioner : Mr.U.Antony Santhosh

For Respondents : Mr.N.Muthu Vijayan,
Special Government Pleader

ORDER

This writ petition is filed to quash the impugned order, dated 18.07.2013 with consequential direction to sanction family pension to the petitioner.

2. Heard Mr.U.Antony Santhosh, learned counsel appearing for the petitioner and Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the respondents.

3. The petitioner's husband was working as Night Watchman in the 3rd respondent office and retired on superannuation on 31.05.2004. The contention of the petitioner is that the deceased employee has married already one Sivagnanadevi 22.03.1986. However, she left the deceased employee and inspite of repeated request to rejoin her husband (the deceased employee), the first wife



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refused to do so. Hence, the deceased employee married the petitioner in the year 1994 and blessed with one son and one daughter. The deceased employee died on 10.08.2008. During the life time of the deceased employee, the first wife died on 10.05.2007. Thereafter, the petitioner has obtained Legal heir certificate including the petitioner and her two children. The petitioner has approached the 3rd respondent to sanction family pension to the petitioner. However, the same was declined, by stating that the deceased employee has nominated the first wife as a legal heir. Moreover, since the petitioner has not produced any proof to prove her marriage, the respondents have declined to provide family pension to the petitioner. The further contention of the petitioner is, she had received a cheque from the Accountant General of Tamil Nadu on 19.02.2009, for a sum of Rs. 1198/-, which was granted on demise of the petitioner's husband. Since the petitioner had received this amount, the petitioner is claiming the pension granted to her.

4. The respondents have filed counter stating that there is no proof for the marriage. Moreover, the petitioner is second wife and she got married



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when the first marriage was in force. Therefore, as per provisions of law the petitioner is not entitled to pension.

5. It is seen from records that the employee married the first wife Sivagnanadevi on 22.03.1986 and second marriage in the year 1994. The employee had retired from service on attaining superannuation on 31.05.2004 and has received all his terminal benefits during his life time and died on 10.08.2008. the first wife pre deceased on 10.05.2007. Since the deceased employee had received all benefits during his life time, the second wife cannot be granted the terminal benefits. Moreover, in the service records the nominee is the first wife and hence the petitioner is not entitled to the terminal benefits.

6. As far as the family pension is concerned the second wife is not entitled to family pension, but the children born out of second marriage is entitled to family pension until they attain majority. In the present case the children were minor, but pending writ petitions they had attained majority. Therefore, this Court is of the considered opinion that the children of the petitioner are entitled to family pension of the deceased employee, until their majority. Since the amount is



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accrued until their majority, the 3rd respondent is directed to disburse the accrued family pension. The respondents shall calculate the accrued amount and disburse the same, within a period of 12 weeks from the date of receipt of a copy of the order.

7. With these directions, this writ petition is allowed.

Index : Yes / No
Internet : Yes
ksa

03.03.2023

To

- 1.The State of Tamil Nadu,
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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 1951 of 2016**

03.03.2023