



W.P.(MD)No.5657 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.5657 of 2016

S. Fedreesthangam

... Petitioner

Vs.

1. The Executive Engineer,
Electric Distribution,
Karaikudi.

2. The Superintendent Engineer,
Sivagangai Electric Distribution Circle,
Sivagangai.

3. The Internal Audit Officer,
Audit Department,
Tamil Nadu Electricity Board,
NPKR Maligai 1st Floor,
800, Anna Salai,
Chennai – 600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Certiorarified Mandamus***, calling for the records pertaining to the impugned order in Ka.No.06898/VuNeA/NeB.2/Udhavil/Ko.Kattu/2013, dated --.11.2013 issued by the 2nd Respondent and quash the same and



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consequently direct the Respondents to pay the Family Pension and other benefits to the Petitioner.

For Petitioner : No appearance

For Respondents : M/s.M.Parameswari,
Standing Counsel

ORDER

This writ petition is filed for *Writ of Certiorarified Mandamus*, to quash the impugned order, in Ka.No.06898/VuNeA/NeB2/Udhavil/Ko.Kattu/2013, dated --.11.2013 with consequential relief to direct the respondents to disburse family pension and other benefits to the petitioner.

2. No appearance on the side of the petitioner. Heard M/s.M.Parameswari, learned Standing Counsel, appearing for the respondents. Perused the material documents available on records.

3. The petitioner is the wife of deceased employee, namely, Sangili Veerapandia Devakumar, who joined service as Casual employee in the year 01.01.1977 and thereafter, his service was regularised and promoted as Assistant. The writ petitioner married the deceased employee on 12.05.1992. Earlier, the



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deceased husband married one Mary Rooparani in the year 1977 and divorced on 04.11.1991, as per custom prevailed his caste. The petitioner voluntarily retired from service on 30.07.2002 and died on 03.10.2005 and his Payment Pension Order was PPO No.41907 and he has received Provident Fund and Gratuity amount and also receiving pension. The petitioner's name was included as beneficiary/nominee in the family pension. The petitioner has approached the respondents, after the death of petitioner's husband to sanction family pension. In the meanwhile, the 1st wife has also gave a representation to the authorities, hence on 22.05.2006 the respondents have passed an order, stating since there were rival claim, the family pension could not be sanctioned. Further, it was directed the petitioner to get succession certificate from the competent Civil Court. In the meanwhile, the 1st wife and her daughters have filed a suit in O.S.No. 56 of 2006 on the file of the Additional District Munsif Court, Karaikudi, praying for declaration to declare the daughter of the 1st wife as legal heir.

4. During the pendency of the said suit, the 1st wife died. Thereafter, the suit was not properly prosecuted and it was dismissed for default on 02.07.2010 and the same was not restored.



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5. In the meanwhile, the petitioner has submitted a representation, dated 11.03.2002 to the 2nd respondent to sanction family pension of her husband. But the respondents have rejected through the impugned order. Aggrieved over the same, this instant writ petition is filed.

6. After hearing rival submissions, this Court is of the considered opinion that, in the suit filed before the Court below, the 1st wife has prayed only declare her two daughter as Legal Heirs of the deceased employee.

7. It is also seen from the records that the 1st wife was divorced through the customary practice on 04.11.1991. Thereafter, the deceased employee had married the writ petitioner on 12.05.1992. Eventhough, it is a customary divorce, the 1st wife has never claimed herself as Legal Heir of the deceased husband. The deceased employee has also entered the name of the petitioner as nominee in the Service Register as well as in the Pension Payment Order.

8. Accordingly, the impugned order in Ka.No.06898/VuNeA/NeB. 2/Udhavil/Ko.Kattu/2013, dated --.11.2013, is hereby quashed. The respondents



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are directed to pay family pension to the writ petitioner. Whatever amount is accrued, the respondents shall pay the same to all the three legal heirs i.e., 2nd wife and the two daughters of the 1st wife. However, the petitioner and the legal heirs are not entitled to any interest.

9. With the above observations, this Writ Petition is allowed. No

Costs.

Index : Yes / No
Internet : Yes
ksa

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S.SRIMATHY, J

ksa

**Order made in
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