



W.P.No.1089 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.1089 of 2021 and
W.M.P.No.1208 of 2021 and
W.M.P.No.4028 of 2022

S.Rathinaammal

... Petitioner

Vs.

1.The District Collector,
Krishnagiri 635 001.

2.The Block Educational Officer,
Krishnagiri 635 001.

3.The District Treasury Officer,
Krishnagiri 635 001.

4.The Senior Accounts Officer/Pension 17
O/o. Accountant General (A&E),
361 Anna Salai, Teynampet, Chennai 18.

5.The Thasildar,
Krishnagiri.

6.Smt.Susila

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of the fourth respondent's proceedings made in No.PEN.17/4/Pt/8393/C145447/20-21/97/35905 dated 09.12.2020 and



W.P.No.1089 of 2021

the order of the third respondent made in Na.Ka.No.5185/2020/AA2, dated 21.12.2020 and quash the same and consequently direct the respondent 1 to 4 to forthwith continue to pay the family pension.

For Petitioner : Mr.L.Chandrakumar
For Respondents : Mr.P.Gurunathan, AGP for R1 & R2
Mr.S.Arumugam, GA for R3 & R5
Mr.P.Mani for R6
Mr.V.Vijay Shankar for R4

ORDER

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order of the fourth respondent in proceedings No.PEN.17/4/Pt/8393/C145447/20 - 21/97/35905 dated 09.12.2020 and the order of the third respondent made in Na.Ka.No.5185/2020/AA2, dated 21.12.2020, to quash the same and consequently direct the respondents 1 to 4 to forthwith continue to pay the family pension.

2. Heard Mr.L.Chandrakumar, learned counsel for the petitioner, Mr.P.Gurunathan, learned Additional Government Pleader for R1 & R2, Mr.S.Arumugam, learned Government Advocate for R3 & R5, Mr.V.Vijay Shankar, learned counsel for R4 and Mr.P.Mani, learned



W.P.No.1089 of 2021

counsel for R6.

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3. The petitioner claims to be the wife of the deceased Government Servant Saman. The sixth respondent claims herself as the first wife of late Saman. According to the submission of the sixth respondent, the petitioner is not a legally wedded wife of the deceased, as the marriage of the sixth respondent with Saman was in subsistence till his death.

4. It is learnt that there were some civil disputes filed by the sixth respondent against the deceased Saman for claiming maintenance in O.S.No.231 of 2003 before the Sub Court, Krishnagiri. Judgment has been rendered in the said suit on 30.07.2014 by making an observation that the divorce muchalika filed by Saman was not proved. The petitioner is also basing her claim only on the alleged divorce, about which a finding has already been rendered by the Civil Court in the said suit in O.S.No.231 of 2003. However, the petitioner was not a party to the said proceedings involved in the above suit. So the petitioner's only contention is that she was married to Saman after his marriage with the sixth respondent has been dissolved by the customary divorce.



W.P.No.1089 of 2021

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5. However, basing upon the legal heir certificate and other documents filed by the sixth respondent, the fourth respondent has passed an order disbursing the family pension to the sixth respondent and the same is in force. Since the third and fourth respondents had acted upon the basis of the legal heir certificate, the impugned order cannot be held to be illegal. However, it is open to the petitioner, if she is so advised, to initiate appropriate civil proceedings before the appropriate forum by raising the very same contentions now she has made before this Court.

6. With these observations, this Writ Petition is disposed. No costs.

Consequently, connected miscellaneous petitions are closed.

15.02.2024

Index : Yes /No

Internet : Yes/No

Speaking / Non-speaking
gsk

To

1.The District Collector,
Krishnagiri 635 001.

2.The Block Educational Officer,

Page No.4 of 6



W.P.No.1089 of 2021

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W.P.No.1089 of 2021

R.N.MANJULA, J.

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