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W.P.No. 3212 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2024

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THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No. 3212 of 2018

S. Vasantha

... Petitioner

Vs.

1.The Accountant General,
Accounts and Entitlements,
No.361, Annasalai,
Teynampet, Chennai – 600 018.

2.The Superintendent of Police,
Palayamkottai,
Tirunelveli District.

3.The Treasury Officer,
Treasuries and Accounts Department,
Tirunelveli.

... Respondents

[R3 suo moto impleaded as per order dated 08.02.2024]

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to pay the Family Pension to the petitioner.

For Petitioner : Mr. N. Srirangan

**For Respondents : Mr. M. Alagu Goutham, for R2 & R3
Government Advocate
Mrs. Hema Muralikrishnan , for R1
Standing Counsel**



W.P.No. 3212 of 2016

ORDER

Heard Mr.N.Srirangan, the learned counsel for the petitioner, Mrs. Hema Muralikrishnan, the learned Standing Counsel for the first respondent and Mr. Alagu Goutham, the learned Government Advocate for the respondents 2 and 3 and perused the materials available on record.

2. The petitioner is the mother of S.Muthukrishnan, who worked as RSI, Armed Reserve Police, died on 15.12.2006 while in service, leaving behind his parents and wife. Subsequent to his death, one Seethalakshmi, wife of the deceased employee was granted family pension based on the proposal sent by the second respondent and pension payment order issued by the first respondent. Thereafter, Smt. Seethalakshmi had remarried one Sri. Ayyiratham in April 2011. The petitioner being the mother of the deceased employee has submitted a representation to the respondents to stop payment of pension to her daughter-in-law who had remarried and requested to pay family pension to her. On receipt of the said representation, the first respondent addressed the third respondent on 20.04.2012 requesting to ascertain factual position as to the remarriage of Seethalakshmi and if she was remarried, directed the third respondent to stop payment of family pension to her. In turn, the third respondent vide letter dated 08.06.2012 informed the first respondent that family pension being paid to Seethalakshmi had been stopped and requested the Tahsildar, Ambasamudram to confirm the remarriage of Smt. Seethalakshmi.



Meanwhile, the second respondent had sent a family pension proposal in favour of the petitioner on 17.05.2017 with a certificate of remarriage of Smt. Seethalakshmi with Sri. Ayyarithan from the Tahsildar, Palayamkottai. As the date of remarriage was not mentioned in the said certificate, the first respondent returned the proposal to the second respondent with a request to furnish the proof of remarriage clearly stating the date of remarriage with supporting documents. Thereafter, it appears, no further communication between the first, second and third respondents. The petitioner made several representations to the respondents and against their inaction on her representations, she constrained to file this writ petition.

3. Separate counter affidavits filed by the respondents 1 to 3.

4. On perusal of the averments made in these three counter affidavits, it appears that there is no dispute with regard to the facts of the case.

5. Having heard the submissions of the respective counsel and upon careful examination of the materials available on record, it appears that originally after sudden death of the son of the petitioner i.e., one S.Muthukrishnan, family pension was granted in favour of his wife Smt. Seethalakshmi. Thereafter, in the month of April 2011, she had remarried one Sri. Ayyarithan. It is an admitted fact that once the



widow of the deceased employee who was granted family pension had remarried, she is not entitled to get the family pension as per the relevant rules.

6. It is also an admitted fact that as per para No.2 of G.O.Ms.No.327 Finance (Pension) Department dated 30.08.2001, when the parents were wholly dependant on the Government servant, when he / she was alive, they are entitled for the family pension. In the instant case, the petitioner being the mother of the deceased employee will be eligible for family pension with effect from the date following the date on which the eligibility for his wife she gets. This fact is admitted in the counter affidavit of the first respondent. The second respondent also considering the request of the petitioner, sent proposal for family pension in favour of the petitioner on 17.05.2017 to the first respondent. At the stage, it is very pertinent to note that the family pension earlier granted in favour of the wife of the deceased employee was stopped from the month of May 2012. This fact was informed by the third respondent vide letter dated 08.06.2012 to the first respondent.

7. On comprehensive examination of the entire record, it appears, the only reason for non consideration of the request of the petitioner to sanction family pension in favour of her after cancelling the payment of the family pension to her daughter-in-law after her remarriage is for non production of the remarriage



certificate. In fact, the second respondent along with the proposal dated 17.05.2017 enclosed a certificate of remarriage of Smt. Seethalakshmi with Sri. Ayyarithan from the Tahsildar, Palayamkottai. But the first respondent returned the proposal to the second respondent with a request to furnish the proof of remarriage clearly stating the date of remarriage. The letter dated 08.06.2012 addressed by the third respondent to the first respondent disclosed that he has requested the Tahsildar, Ambasamudram to confirm the remarriage of Smt. Seethalakshmi. But thereafter, no communication between the respondents.

8. During the course of hearing of this writ petition, the learned Government Advocate appearing on behalf of the respondents 2 and 3 have filed certain documents to substantiate his case including a birth certificate dated 19.01.2012 issued by the City Health Officer, Tirunelveli, City Municipal Corporation, Government of Tamilnadu. On perusal of the same, it proves that one A.Masanam, born to Smt. Seethalakshmi and Thiru. Ayyirathan on 29.12.2011. The certificate was issued on 19.01.2012. The contents of the certificate proves that Smt. A.Seethalakshmi and Thiru. M.Ayyirathan are living as wife and husband and they blessed with son one Masanam. Even in the absence of the marriage certificate of Seethalakshmi and Ayyirathan, the birth certificate of their son proves their marriage and their status as wife and husband.



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9. Admittedly, the petitioner is aged 80 years old widow, she cannot move post and pillar to get the marriage certificate of daughter-in-law who got remarried in the year, April 2011. It is an admitted fact that the second respondent being the Superintendent of Police and the third respondent being the District Treasury Officer, they could not get that remarriage certificate from the concerned authorities to submit the same to the first respondent. Under these circumstances, it is not proper to expect that the 80 years old widow i.e., the petitioner herein to get that certificate and submit to the respondents for sanction of family pension.

10. For afore stated reasons and considering the peculiar facts and circumstances of the case and treating the case as a special case, this Court intends to pass the following orders to meet the interest of justice.

11. Accordingly, this Writ Petition is allowed with the following directions: -

i) The second respondent shall re-submit the family pension proposal in favour of the petitioner along with the birth certificate dated 19.01.2012 of the son of Smt. Seethalakshmi and Sri. Ayyiratham to the first respondent, within a period of one week from the date of receipt of copy of this order.



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ii) On receipt of proposal from the second respondent, the first respondent shall pass order to sanction the family pension in favour of the petitioner within a period of one week.

iii) The third respondent shall pay family pension to the petitioner within one week from the date of the order of pension payment order to be passed by the first respondent.

iv) The respondents shall pay the arrears of the family pension amount to the petitioner from the date of stopping the same to the daughter-in-law of the petitioner.

v) The entire exercise shall be completed within a period of four weeks from the date of receipt of copy of this order.

14. There shall be no order as to costs.

19.03.2024

Index :Yes/No

Neutral Citation :Yes/No

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Note: Issue order copy on 21.03.2024



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BATTU DEVANAND, J.

AT

To

1.The Accountant General,
Accounts and Entitlements,
No.361, Annasalai,
Teynampet, Chennai – 600 018.

2.The Superintendent of Police,
Palayamkottai,
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