



WEB COPY



W.P.No.4720 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.4720 of 2024

E.Seethalakshmi

... Petitioner

-Vs-

1. State of Tamil Nadu,
represented by the Secretary to the Government,
Home Department,
Secretariat, Fort St.George,
Chennai – 600009.

2. The Superintendent of Prison,
Central Prison – 2,
Puzhal, Chennai – 66.

3. E.Malarvizhi

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the second respondent to release the pensionary benefits of petitioner's husband Mr.Esakkimuthu Grade -I Warden, Central Prison – 2, Puzhal, Chennai to the petitioner within time frame fixed by this Hon'ble High Court.

For Petitioner : Mr.P.Arumugavel

For R1 and R2 : Mr.V.Veluchamy
Additional Government Pleader

ORDER



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This Writ Petition has been filed for direction directing the second respondent to release the pensionary benefits to the petitioner in lieu of her husband's demise.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner's husband was working as Grade-I Warden, in the Central Prison -2, Puzhal and died in harness on 24.04.2009. The petitioner is the wife of one Esakkimuthu and they gave birth to two sons and two daughters. While being so, the third respondent filed a suit in O.S.No.10497 of 2010, on the file of the II Assistant City Civil Court, Chennai as against the petitioner and her sons and daughters, for declaration declaring that the third respondent and her mother one Saithun Beevi @ Lakshmi as legal heirs of the deceased Esakkimuthu. However, the petitioner herein failed to appear before the Trial Court and as such, the petitioner and her sons and daughters were set *exparte*. Aggrieved by the same, the petitioner filed an appeal in A.S.No.1 of 2014 as against the *exparte* Judgment and Decree in O.S.No.10497 of 2010 and the same was allowed and remitted back the matter to the Trial Court for fresh trial. After remittance of the suit, the third respondent's mother failed to appear



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before the Trial Court and as such, the suit in O.S.No.10497 of 2010 was dismissed for default by the Judgment and Decree dated 17.08.2016.

4. Thereafter, there was no rival claim before the respondents 1 and 2 claiming pensionary benefits. The petitioner's husband died on 24.04.2009. So far, the petitioner was not paid with any death-cum-retirement benefits of her deceased husband Esakkimuthu and she was not paid any pension. That apart, even according to the third respondent's mother the petitioner is the first wife of the deceased Esakkimuthu and while she was very much alive, her husband got married with the third respondent's mother. Therefore, when the first wife is very much alive, the second marriage is void. Therefore, the petitioner is entitled for all the pensionary benefits and arrears of her deceased husband. Insofar as other benefits are concerned, if there is any rival claim made by the third respondent, it may be considered proportionately in accordance with law.

5. In view of the above, the first and second respondents are directed to disburse the arrears of the pension and pension to the petitioner, forthwith.

6. Accordingly, this writ petition is allowed. There shall be no order as to costs.



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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order
mn

To

1. The Secretary to the Government,
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Home Department,
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2. The Superintendent of Prison,
Central Prison – 2,
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G.K.ILANTHIRAIYAN. J.

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