



WEB COPY



W.P.No.13519 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.No.13519 of 2024 and

WMP No.14670 of 2024

S.Pandurangan (died)

1. Bharathi Bai, w/o late S.Pandurangan
2. Janarthanan, s/o late S.Pandurangan
3. Kanchana Devi, d/o late S.Pandurangan

... Petitioners

Vs.

1. The Post Master General,
Tamil Nadu Circle, Chennai 600 002.
2. The Superintendent of Post Offices,
Thiruvannamalai Division,
Thiruvannamalai 606601.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a writ of certiorarified mandamus, to call for the records pertaining to the impugned order passed in O.A.No.164 of 2018, dated 20.01.2020 and consequent order passed in R.A.No.5 of 2020, dated



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03.05.2023 by the Central Administrative Tribunal, Chennai and quash the same and consequently direct the second respondent to authorize nomination of DCRG and family pension to the first petitioner Mrs.Bharathi Bai.

For Petitioners : Mr.M.Abdul Razack

For Respondents : Mr.Rajesh Vivekanandan,
Deputy Solicitor General

ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

2. This writ petition has been filed by the legal heirs of the deceased S.Pandurangan to quash the order dated 20.01.2020 passed by the Central Administrative Tribunal in O.A.No.164/2018, in and by which, the claim of the deceased S.Pandurangan to authorize nomination of DCRG and Family pension to his second wife (Bharathi Bai) was dismissed and also to quash the order passed by the Tribunal in Review Application No.5/2020, dated 03.05.2023.

2. Mr.Rajesh Vivekanandan, learned Deputy Solicitor General, takes notice for the respondents.

3. By consent of both the counsel, this writ petition is taken up for final disposal at the stage of admission itself.

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4. The brief facts of this case is as follows.

The first petitioner is wife and the second and third petitioner are son and daughter of the deceased S.Pandurangan. The said S.Pandurangan married the first petitioner on 01.05.1970, while his first wife (Manonmani) was alive, and with her consent. Subsequently, he got divorce from his first wife, vide order dated 14.02.1972 in O.P.No.26 of 1971 and he paid maintenance to her till her death on 11.05.2000. Initially, S.Pandurangan had given his first wife's name in the service book and after her death, he gave several representations to the second respondent to authorize nomination of DCRG and family pension in the name of the first petitioner herein. Finally, as per the direction of the Tribunal in MA No.463/2017 and OA No.848/017, dated 14.06.2017, the representation of S.Pandurangan dated 24.04.2017 was considered and rejected by the second respondent, vide order dated 16.01.2018. Hence, he approached the Tribunal by filing O.A.No.164/2018. The Tribunal, by relying upon the Central Civil Services (Conduct) Rules, held that the above rules prohibits Government Servants from performing second marriage during the life time of their spouse living, without obtaining permission from the Government and dismissed the above

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application. In the meanwhile, S.Pandurangan died, and the petitioners herein filed Review Application in R.A.No.5/2020 against the above order in O.A.No.164/2018 and the same was also dismissed on 3.5.2023. Hence, the petitioners are before this court.

5. The learned counsel for the petitioners has relied upon the decision of the *Hon'ble Supreme Court in Civil Appeal No.5262 of 2023, dated 18.08.2023 (Smt. Shiramabai w/o Pundalik Bhave and others Vs. The Captain, Record Officer for OIC records, Sena Corps Abhilekh, Gaya, Bihar State and another)* and submitted that, in the above said case, the Hon'ble Apex Court has granted the relief to the petitioners therein and since the petitioners herein are the similarly placed persons, the orders passed by the Tribunal are liable to be set aside.

6. The learned Deputy Solicitor General, appearing for the respondents objected the said contention of the learned counsel for the petitioner and submitted that, in the afore said decision of the Apex Court, the petitioners therein, had approached the civil court and thereafter, as



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against the judgment and decree of the civil court, they filed the above civil appeal before the Hon'ble Supreme Court. Here in this case, the petitioners have not approached the civil court to get the declaratory relief that the first petitioner is entitled to get the DCRG and family pension. Therefore, without obtaining appropriate orders from the civil court, they cannot seek direction from this court to the authority concerned to grant the said relief. As such, the orders passed by the Tribunal need not be interfered with.

7. Heard the learned counsel for the petitioners and the learned Deputy Solicitor General appearing for the respondents and we have also gone through the judgment passed by the Hon'ble Supreme Court in Civil Appeal No.5262/2023, dated 18.08.2023.

8. Admittedly, the first petitioner is the second wife of the deceased S.Pandurangan and her marriage with him was solemnized, during the life time of his first wife. Even though the first petitioner and her two children, viz., the second and third petitioners are the only surviving legal heirs of the deceased government employee, the issues with regard to the right of getting



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DCRG and pension by the first petitioner, can be adjudicated only by the competent civil court. In such circumstances, we are of the view that this Court sitting under Article 226 of the Constitution of India, cannot go into the above issues. Hence, we are not inclined to entertain this writ petition. However the petitioners are at liberty to approach the competent civil court to substantiate their right.

9. With the above liberty, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J.) (K.B.J.)

03.06.2024

Internet: Yes/No
Index : Yes/No
mst

To

1. The Post Master General,
Tamil Nadu Circle, Chennai 600 002.
2. The Superintendent of Post Offices,
Thiruvannamalai Division,
Thiruvannamalai 606601.



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