



W.P.No.19845 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.19845 of 2024

Pownammal

... Petitioner

Vs

1. Union of India,
Represented by the Secretary,
Ministry of Defence,
New Delhi – 110 011.
2. The Directorate of Indian Army Veterans,
Adjutant General Branch,
Integrated HQ of MOD (Army),
104, Calvary Road, Maude Line,
Delhi Cantt – 110 010.
3. The Lt.Colonel,
Senior Record Officer for OIC Records,
Record Office,
Madras Engineer Group,
PIN – 900493, C/O. 56 AP
4. The Defence Pension Disbursing Office,
Ex-Servicemen Welfare Building,
Fort Round Road, Vellore District,
Tamil Nadu – 632 001.



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5. Reeta S.

6. Rajakumar

7. Vijay Kumar alias Rajan

8. Deepa S.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the fourth respondent herein, to disburse the entire pensions benefits and other service benefits of the petitioner's (Late) husband Mr. Sivaprakasam's accrued till date.

For Petitioner : Mr. D.Ferdinand
for M/s. BFS Legal

For Respondents : Mr. M.Arvind Kumar,
Senior Panel Counsel (for R1 to R4)

O R D E R

The Writ Petition has been filed for directing the fourth respondent herein to disburse the entire pension benefits and other service benefits of the petitioner's husband, viz., late Sivaprakasam.



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2. The petitioner's husband was enrolled in the Army on 02.03.1960 in the Corps of Pioneers. During his employment, he married the petitioner on 16.09.1966, and she was nominated to receive all his death-cum-retirement benefits. Thereafter, they had four children. While that being so, the petitioner's husband died on 09.04.2000. When the petitioner sought her husband's service benefits, a rival claim was made by one Vanaja, who also filed a Writ Petition in W.P. No. 14898 of 2000 before this Court seeking family pension. This Court, by order dated 08.04.2002, directed her to approach the Civil Court, and if she succeeded, she would be entitled to 50% of the family pension. Accordingly, she filed a suit in O.S. No. 383 of 2002 before the Principal District Munsif Court, Vellore. However, the said suit was dismissed. Thereafter, the said Vanaja, children born to her, and the petitioner entered into a compromise via a joint affidavit dated 25.11.2014, and the same was submitted before the fourth respondent seeking all benefits of the deceased husband of the petitioner. Even then, it was not considered so far.



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3. The learned Senior Panel Counsel appearing for the first to fourth respondents submitted that the Writ Petition itself is not maintainable, since there is a Tribunal.

4. On a perusal of the order passed by this Court in W.P. No. 14898 of 2000 dated 08.04.2002, it reveals that this Court directed the rival claimant to approach the Civil Court for a declaration, and if she succeeds, she will be entitled to 50% of the family pension. Further, after the demise of the petitioner's husband, no benefits have been disbursed so far. In fact, in the year 2008 itself, the suit filed by the said Vanaja was dismissed. Thereafter, on 25.11.2014, they entered into the joint compromise via the joint affidavit, and the same was submitted before the fourth respondent for the disbursal of the service benefits of the petitioner's husband, late Sivaprakasam. In view of the above, this Writ Petition is very much maintainable.



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5. Considering the above facts and circumstances, the fourth respondent is directed to disburse the entire pension benefits and other service benefits of the petitioner's husband, late Sivaprakasam, with interest at the rate of 6% per annum, within a period of eight weeks from the date of receipt of a copy of this order.

6. In the result, this Writ Petition is allowed. No costs.

23.07.2024

Index: Yes/No
Neutral Citation: Yes/No
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To

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