



W.P.No.13987 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.13987 of 2021

B.Chandra Christina

... Petitioner

Vs.

1.The Secretary to Government,
Public Works Department,
Chennai 600 009.

2.The Chief Engineer,
Public Works Department,
Chepauk, Chennai 600 005.

3.The Accountant General (ALE),
Office of the Accountant General (ALE),
Pension Section, 261, Anna Salai,
Teynampet, Chennai 600 006.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to pay compounding interest on the belated payment of family pension from 24.10.2007 to 01.03.2016 for a period of more than 8 years at the rate of 18% per annum within a time frame as may be fixed by this Court.

For Petitioner : Mr.R.Kishore Kumar for



M/s.Bala and Daisy
For Respondents : Mr.R.Neethi Perumal, GA for R1 & R2
Mrs.Hema Muralikrishnan for R3

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus to direct the respondents to pay compounding interest on the belated payment of family pension from 24.10.2007 to 01.03.2016 for a period more than 8 years at the rate of 18% per annum within a time frame as may be fixed by this Court.

2. Heard Mr.R.Kishore Kumar, learned counsel for the petitioner, Mr.R.Neethi Perumal, learned Government Advocate for the respondents 1 and 2 and Mrs.Hema Muralikrishnan, learned counsel for R3.

3. The petitioner who is said to be the wife of the deceased Government Servant K.S.Baskaran has claimed interest for the belated disbursement of family pension. The deceased K.S.Baskaran had a first wife by name Saroja Padmavathy and their marriage was in force till 08.03.2007. Only by virtue of the order of the Family Court dated 08.03.2007, the marriage between the deceased K.S.Baskaran and his first



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wife was dissolved. The petitioner's husband died on 23.10.2007. Despite the proposal for family pension was sent as early as on 24.10.2007, the family pension was sanctioned only on 01.03.2016. Hence the petitioner has filed this Writ Petition seeking interest for the period from 24.10.2007 to 01.03.2016.

4. The learned Government Advocate for the respondents 1 and 2 submitted that the petitioner had married the deceased K.S.Baskaran even while his marriage with the first wife was in subsistence. Even according to the submission made by the petitioner, she has married the deceased K.S.Baskaran on 12.03.2003, obviously on the said date, the marriage between K.S.Baskaran and his first wife was subsisting. This had caused some confusion in acknowledging the status of the petitioner as wife of the deceased and accord family pension to her.

5. The learned Government Advocate further submitted that the petitioner did not approach the Court at an earliest point of time and had acquiesced the order for more than five years and hence the petitioner is affected due to delay and laches.



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6. The learned counsel for the petitioner also submitted that the petitioner has been making subsequent representation with a firm belief that the respondents will consider the representation and will pass orders.

7. The petitioner also filed W.P.(MD) No.2121 of 2008, wherein, an order has been passed on 21.10.2013 which is extracted hereunder:

"5. Admittedly, the petitioner and Mr.K.S.Baskaran are Christian. Admittedly, on 12.02.2003, the marriage between Mr.K.S.Baskaran was in subsistence and therefore, the marriage between the petitioner and Mr.K.S.Baskaran, which held on 12.02.2003, is not valid. But at the same time, after divorce was granted by the Civil Court on 08.03.2007, dissolving the marriage between Mr.K.S.Baskaran and Saroja, there was no marital relationship between Mr.K.S.Baskaran and Saroja. After 08.03.2007, Mr.K.S.Baskaran lived with the petitioner, treating her as his wife. That is the reason why he made a request before the respondent during the month of September 2007 to incorporate the name of the petitioner as his wife in the pension payment order.



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6. *Thus, the fact that the petitioner is the wife of Mr.K.S.Baskaran was recognised and they have also been treated as husband and wife. In view of the divorce granted on 08.03.2007, the relationship between the petitioner and Mr.K.S.Baskaran has been recognised and the relationship is that of husband and wife. Though the marriage, which took place on 12.02.2003 is not valid, it does not mean that the petitioner did not acquire the status of wife after 08.03.2007. I hold that after 08.03.2007, the petitioner has acquired the legal status of wife of the deceased Mr.K.S.Baskaran. Thus, in my considered view, the petitioner is entitled for family pension.*

7. *In view of the above, the Writ Petition is allowed and the respondent is directed to pay family pension to the petitioner on account of demise of Mr.K.S.Baskaran. The respondent shall pass consequential orders within a period of three weeks from the date of receipt of a copy of this order. No costs."*

8. Even though in the said order, the respondent was directed to pass orders to sanction family pension within a period of three weeks from the date of receipt of a copy of that order, the family pension was



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sanctioned only on 01.03.2016. Even though there may be some confusion in sanctioning family pension before ordering the said writ petition, a further delay after the order passed in the said Writ Petition is unnecessary. The reason for keeping the Writ Petition filed by the petitioner pending is in view of the confusion surrounding her marital status with the deceased employee. Hence the delay till the above order in the Writ Petition can be taken as reasonable. However, for the further delay made by the respondents there seems to be no acceptable reason.

9. Admittedly the order passed in W.P. (MD) No.2121 of 2008 has not been challenged by the respondent therein by way of preferring an appeal. Having accepted the order passed on 21.10.2013 in W.P.(MD) No.2121 of 2008, the respondents ought to have acted in terms of the above order within the time limit prescribed therein. Since the failure on the part of the respondents had caused hardship to the petitioner and caused delay in disbursing the family pension, I feel it is appropriate to allow the claim of the petitioner with a reasonable rate of interest from the date of the order passed in the above said Writ Petition till the date of sanction of family pension. Even though there is no provision for



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awarding interest in the Pension Rules, by adopting the principles of equity, the petitioner is entitled to get a reasonable interest for the delay caused in disbursing the pension.

10. In the result, this Writ Petition is disposed and the respondents are directed to pay the interest at the rate of 8% for the belated sanction of family pension from the date of the order passed in W.P. (MD) No.2121 of 2008 i.e., 21.10.2013 till the date of sanction of family pension i.e., 01.03.2016, within a period of four weeks from the date of receipt of a copy of this order. No costs.

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Index : Yes /No
Internet : Yes/No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

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To

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