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W.P.No.20471 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.20471 of 2023

R.Meenakshi

... Petitioner

Vs.

1.Union of India rep by
The General Manager
Southern Railway
Park Town, Chennai – 600 003.

2.The Senior Divisional Personnel Officer
Chennai Division, Southern Railway
NGO Annexe, Park Town
Chennai – 3.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari to call for the records pertaining to order dated 12.07.2022 passed in OA.No.681 of 2018 on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.D.Nellaiappan

For Respondents : Mr.K.Gunasekar, SPCCG for R1&R2



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ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The claim of the writ petitioner for grant of family pension under the divorced daughter category is under challenge in the present proceedings.

2. The father of the writ petitioner Sri.Ramiah Achari joined as Senior Track Man in Southern Railway and was made permanent in the year 1979, his service was terminated on 08.10.1992, subsequently he was reinstated and died on 05.07.2007.

3. It is not in dispute that the father of the petitioner received pension till his death. The mother and the wife of the employee predeceased, the pensioner died in the year 2006.

4. The petitioner submitted an application seeking family pension from the date of death of his father. Since, the claim was rejected by the second respondent, original application came to be instituted before the Tribunal. The Tribunal considered the issues with reference to the Official Memorandum



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dated 19.07.2017 and rejected the Original Application. Thus the present writ petition is filed.

5. The learned counsel for the petitioner would submit that the petitioner is divorced daughter and therefore she is eligible for pension under the Government of India pension scheme. The Tribunal has not considered the fact that the petitioner obtained valid decree of divorce from her husband, thus the present petition is to be considered.

6. The learned Senior Panel Counsel for the Central Government would oppose by stating that the Tribunal is right in rejecting the application based on the conditions stipulated in the Official Memorandum dated 19.07.2017.

7. We have considered the arguments as advanced between the parties to the lis on hand.

8. The benefit of family pension was extended to divorced daughter by the Government of India in its Official Memorandum dated 19.07.2017, one of the eligible conditions prescribed in Para 14 of the said Official Memorandum reads is as under :-

“4.It was clarified that a daughter if eligible, as



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explained in the preceding paragraph may be granted family pension provided she fulfills all eligibility conditions at the time of death/negligibility of her parents still on the date her turn to receive family pension comes. Accordingly, divorced daughters who fulfil other conditions are eligible for family pension if a decree of divorce had been issued by the competent Court during the life time of at least one of the parents.”

9. As per clause 4, the divorced daughter who fulfill other conditions are eligible for family pension if a decree of divorce had been issued by the competent Court during the life time of at least one of the parents, (i.e., pensioner or family pensioner).

10. In the present case, admittedly, the decree of divorce was obtained by the petitioner from her husband only on 28.01.2020, after a lapse of 13 years from the date of death of the pensioner. The wife of the pensioner predeceased her husband, therefore, the petitioner is not eligible for family pension as per the Official Memorandum dated 19.07.2017.



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11. The conditions stipulated under the pension scheme is to be scrupulously followed. The Courts cannot expand the scope of pension scheme as it involves financial implications. Eligibility criteria contemplated under the scheme must be followed stricto sensu and any deviation would result in opening of pandora's box, as many such similarly placed person would also claim family pension.

12. Grant of family pension to the divorced daughter itself is a concession extended by the Government of India. Thus it can be claimed as right, only if such divorced daughter become eligible under this scheme.

13. In the present case, the petitioner is found ineligible as per the terms and conditions of the scheme. Therefore we do not find any infirmity in respect of the order passed by the Central Administrative Tribunal. Consequently, the writ petition stands dismissed. No costs.

[S.M.S., J.]

[M.J.R., J.]

12.12.2024

Index: Yes/No

Speaking/Non-speaking order

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To

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