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W.P.No.17283 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.17283 of 2024

B.Sundari

... Petitioner

Vs

The Registrar,
Anna University,
Chennai – 600 025.

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent herein to grant Family Pension to the petitioner in view of the demise of her husband Mr. Balaraman on 07.03.2021 the pensioner under the respondent University vide PPO No. 53586/PR62/91-1 dated 26.06.2000.

For Petitioner : Mr. R.Dhanasekar

ORDER

This Writ Petition has been filed for directing the respondent herein to grant Family Pension to the petitioner, in view of the demise of her husband, viz., Balaraman on 07.03.2021.



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2. The petitioner's husband initially married one Ellammal.

However, she got paralyzed and as such, in the year 1982 and the petitioner and the said Balaraman got married as second wife and they gave birth to two children. Thereafter, the first wife fell sick and died on 06.09.2012. The petitioner's husband was working as Office Assistant and he retired from service on 30.06.2000. After his retirement, he also died on 07.03.2021. When the petitioner's husband was alive, he submitted a representation to nominate the petitioner as his nominee in the service records. However, the said representation has not been considered till his demise. Though the petitioner, being the second wife, the first wife died even before her husband's demise.

3. In this regard, the learned counsel for the petitioner relied upon a judgment of the Hon'ble Supreme Court in the case of ***Dhannulal and others -vs- Ganeshram and another*** (ILC-2015-SC-civil), which reads as follows:-

“14. In the case of Gokal Chand -vs- Parvin Kumari, AIR 1952 SC 231, this Court observed that



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continuous co-habitation of woman as husband and wife and their treatment as such for a number of years may raise the presumption of marriage, but the presumption which may be drawn from long co-habitation is rebuttable and if there are circumstances which weaken and destroy that presumption, the Court cannot ignore them.

15. It is well settled that the law presumes in favour of marriage and against concubinage, when a man and woman have cohabited continuously for a long time. However, the presumption can be rebutted by leading unimpeachable evidence. A heavy burden lies on a party, who seeks to deprive the relationship of legal origin. In the instant case, instead of adducing unimpeachable evidence by the plaintiff, a plea was taken that the defendant has failed to prove the fact that phoolbasa Bai was the legally married wife of Chahatrapati. The High Court, therefore, came to a correct conclusion by recording a finding that



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*Phoolbasa Bai was the legally married wife of
Chahatrapati.”*

4. In view of the above, the respondent is directed to consider the case of the petitioner for family pension, within a period of four weeks from the date of receipt of a copy of this order.

5. With the above directions, this Writ Petition is disposed of. No costs.

01.07.2024

Index:Yes/No
Neutral Citation/Yes/No
kv

To

The Registrar,
Anna University,
Chennai – 600 025.



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G.K.ILANTHIRAIYAN, J.

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