



WEB COPY

W.P.No.16102 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.16102 of 2021 and
W.M.P.Nos.17029 & 17032 of 2021

B.Hajira Beevi

... Petitioner

Vs.

1.The Accountant General (A&E),
Teynampet, Chennai 18.

2.Shakila Banu

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent proceedings EN 27/Unit 4/C 401891/21653 dated 24.09.2020 and quash the same and direct the first respondent to pay the pension to the petitioner.

For Petitioner

: Mr.V.Manisekaran

For Respondents

: M/s.Hema Muralikrishnan,
Standing Counsel for R1
No representation for R2



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ORDER

This Writ Petition has been filed by the petitioner for quashment of the order of the first respondent in proceedings EN 27/Unit 4/C 401891/21653 dated 24.09.2020 and to direct the first respondent to pay the pension to the petitioner.

2. Heard the learned counsel on either side and also perused the materials available on record.

3. The learned counsel for the petitioner submitted that the petitioner married the deceased employee and out of the wedlock, they had three sons. Her husband worked as Sub Registrar at Co-operative Societies Department, Coimbatore Region and he retired from service on 31.08.2007. He nominated the petitioner as his wife in the pension payment order. As per the pension payment order, after the death of her husband, the petitioner approached the first respondent for payment of the family pension. After scrutinizing all the documents, the first respondent had sanctioned the pension payment to the petitioner. All of a sudden, on 29.12.2020, the petitioner received a letter from the Assistant Treasury Officer, Palani, stating that the pension has been sent



to the District Treasury, Dindugal and hence, the petitioner approached the Assistant Treasurer, Palani. They have informed that the 2nd respondent has obtained an order in O.S.No.180 of 2016 dated 20.11.2018 on the file of the District Munsif Court, Udumalpet stating that the 2nd wife of the deceased employee objected for sanctioning the pension to the petitioner. Based on the said order, the first respondent by a proceeding No.EN27/Unit 4/C 401891/21653 dated 24.09.2020, had stopped the family pension which was issued to the petitioner. Hence, the petitioner has approached this Court by way of this petition seeking a direction to the first respondent to pay the pension to her.

4. The learned Standing Counsel for the first respondent submitted that subsequent to the death of the deceased employee on 15.08.2011, in letter dated 30.06.2020, the Joint Registrar of Co-operative Societies, Coimbatore forwarded the application from one Shakila Banu, the second respondent herein for grant of 50% of family pension as the second wife of the deceased I.Bose. The said proposals was accompanied by the judgment dated 20.11.2018 of the District Magistrate Court, Udumalpet in O.S.No.180 of 2016, whereby the second respondent has been declared as one of the legal heir of the deceased I.Bose and the Marriage Certificate dated 13.09.2018



issued by the Madrasaye Rahmania Sunnathval Jama-ath, Pollachi, Coimbatore. On that ground, the second marriage of the deceased I.Bose with the second respondent is legal. As per the explanation under Rule 49(7)(b) of the Tamil Nadu Pension Rules, 1978, the second wife of a Government Servant is entitled to 50% share of family pension, if the second marriage is solemnized under the Mohammadan Law in which bigamy is permissible. Accordingly, 50% of family pension was authorised to the petitioner under fresh PPO No.D2725968 with effect from 01.01.2021 and 50% of the remaining pension was authorised to the second respondent under PPO NO.D2725969 on 26.04.2021, under the due intimation to the beneficiaries. He has also produced the authorisation record dated 26.04.2021 pertaining to pension of the deceased employee.

5. On perusal of the records, it reveals that the petitioner and the second respondent are equally entitled to receive the family pension of the deceased employee which is evident from the authorisation pension record and hence, the petitioner is not entitled to receive the entire pension. Considering this aspect, this Court finds that the claim of the petitioner is devoid of merits.

6. With the above observations, this Writ Petition stands dismissed. No



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costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No

Speaking order / Non-speaking order

To

1.The Accountant General (A&E),
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VIVEK KUMAR SINGH, J.

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