



W.P.No.22373 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.22373 of 2023

K.Pugazhenth

...Petitioner

-Vs-

1. State of Tamilnadu,
Rep. by the Accountant General (A&E),
No.361, Anna Salai,
Chennai-600 018.

2. The Regional Joint Director,
Treasuries and Accounts,
Chennai-600 035.

3. The Additional Treasury Officer,
District Treasury,
Villupuram-605 602.

4. The Superintendent of Police,
Villupuram District,
Villupuram.

5. The Director of Pension,
No.259, Anna Salai,
III Block, II Floor,
DMS Campus, Teynampet,
Chennai-600 006.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for



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issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order of the 3rd respondent made in Na.Ka.No.183/2022/A.1 dated 09.06.2023 and quash the same, consequently direct the 1st respondent to pay the family pension along with arrears due to the petitioner from the month of December 2021.

For Petitioner : Mr.R.Malaichamy

For Respondents 2 to 4 : Mrs.R.L.Karthika
Government Advocate

For Respondent 1 : Mrs.J.Sree Vidya
Standing Counsel

ORDER

This Writ Petition has been filed challenging the order passed by the third respondent dated 09.06.2023 thereby order to recovery the family pension which was disbursed to the petitioner from 03.03.2017 to 30.11.2021.

2. The petitioner's husband initially married one K.Dhanalakshmi and gave birth of five daughters. The petitioner's husband was worked as Head Constable and retired from service on attainment of superannuation 31.12.1997. Thereafter, he was paid pension. While being so, even before



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his retirement, his wife Dhanalakshmi died on 22.07.1985. Thereafter, the petitioner married Kaliyaperumal as his second wife on 09.07.1986. They also gave birth to male child on 26.12.1987. Thereafter, he died on 02.03.2017. Immediately, the death cum retirement benefits of Kaliyaperumal was paid to the petitioner. The petitioner was ordered for family pension and accordingly she was paid family pension from 03.03.2017 to 30.11.2021. The Office of the 1st respondent vide letter dated 31.03.2023 intimated to the 4th respondent that the family pension which was paid from 03.03.2017 to 30.11.2021 has been stopped based on the Audit Objection of the Department. The Audit objection revealed that the petitioner is the second wife and as such she is not entitled for family pension. Admittedly, the petitioner is the second wife of Kaliyaperumal. The petitioner got married the said Kaliyaperumal only after the demise of his first wife. Therefore, she is legally wedded wife of the said kaliyaperumal. In fact she was paid all terminal benefits on demise of her husband. After consideration of these facts, the petitioner was ordered to pay family pension. Accordingly, she was paid family pension from 03.03.2017 to 30.11.2021. That apart, the 4th respondent by its



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communication dated 20.02.2023 consider the representation submitted by the petitioner along with relevant documents and conclude that the petitioner was entitle for family pension and request the first respondent to issue necessary authorization for family pension in respect of the petitioner.

3. The 4th respondent filed counter and submitted that the petitioner was paid sum of Rs.50,000/- immediately after the demise of Kaliyaperumal by way of cheque towards Pensioner Family Security Scheme. Thereafter, she was paid family pension for the period between 03.03.2017 to 30.11.2021 as per the authorization issued by the 1st respondent. Therefore, this Court find no reason to stop the family pension granted to the petitioner. As stated supra, the petitioner got married Kaliyaperumal only after the demise of his first wife namely Dhanalakshmi. That apart, there is no rival claim to claim the family pension. Therefore, the petitioner is entitle for family pension and order of recovery of family pension for the period of 03.03.2017 to 30.11.2021 cannot be sustained.

4. In view of the above, the order passed by the third respondent



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dated 09.06.2023 is quashed. The first respondent is directed to disburse the arrears of family pension and also continue to pay pension to the petitioner from the month of December 2021 forthwith.

5. With the above direction, this writ petition is allowed.

Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes/No
Speaking/Non Speaking Order
Neutral Citation : Yes/No
gvn



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G.K.ILANTHIRAIYAN,J.
gvn

To

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