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Writ Petition No.24902 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.24902 of 2024

A.Karupannan
S/o.Ayyamuthu

... Petitioner

Vs.

1.The Principal Accountant General (A&E),
Chennai - 600 018.

2.The Revenue Divisional Officer,
Collectorate of Namakkal,
Namakkal.

3.The Treasury Officer,
Namakkal.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus quashing the order passed by the second respondent in his proceedings Na.Ka.No.9024/2022/A1, dated 15.07.2024 and directing the second respondent to include the name of the petitioner's second wife, M.Saroja, as the nominee of the petitioner in the service records for grant of Family Pension in the case of the death of the petitioner and forward the said proposal to the first respondent to make necessary entries in Pension Payment Order No.P26/12618950/3/PPO.2618950 dated 11.02.2015 issued by the first respondent.



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For Petitioner : Mr.K.Shahul Hameed

For Respondents : Mr.P.Manorajan, Standing Counsel [R1]
Mr.P.Anandakumar,
Government Advocate [R2]
Mr.U.Baranidharan,
Additional Government Pleader [R3]

ORDER

This writ petition has been filed challenging the proceedings of the second respondent dated 15.07.2024 and for a consequential direction to the second respondent to include the name of the petitioner's wife Saroja as the nominee of the petitioner in the service records in order to enable her to get family pension after the life time of the petitioner.

2. When the matter came up for hearing on 29.08.2024, this Court passed the following order:

"Mr.P.Manorajan, learned Standing Counsel takes notice for 1st respondent.

2.Mr.P.Anandakumar, learned Government Advocate takes notice for 2nd respondent.

3.Mr.U.Baranidharan, learned Additional Government Pleader takes notice for 3rd respondent.

4.The short issue that arises for consideration in the present writ petition is as to whether the petitioner is entitled to include Saroja as a nominee for family pension in the light of the marriage that took place between the petitioner and Saroja on 02.09.2022. The 2nd respondent has rejected the request made by



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the petitioner on the ground that the said Saroja was living with the petitioner even when the first marriage was in subsistence. In the considered view of this Court, the 2nd respondent need not have gone into this issue at all. The only thing to be considered is as there was a valid marriage between the petitioner and the said Saroja and if so, the request made by the petitioner for adding the name of the Saroja as nominee for family pension should be entertained.

5.Post this case under the caption 'for orders' on 20.09.2024.

6.In the mean time, the respondents are directed to file counter."

3. The matter was thereafter listed for hearing on 23.09.2024

and the following order was passed by this Court:

"The learned Standing Counsel appearing on behalf of the 1st respondent on instructions submitted that the petitioner has made a false averment in the affidavit as if he married Saroja after the demise of the 1st wife Dhanalakshmi. Whereas, the marriage certificate that was attested by the Tahsildar on 23.02.2014 shows that the petitioner married Saroja on 12.06.1994 during the subsistence of the 1st marriage and whereas, the 1st wife Dhanalakshmi died only on 02.09.2004. In view of the same, it was submitted that the marriage itself is invalid and therefore, the said Saroja is not entitled to receive family pension.

2. The learned counsel for the petitioner submitted that the petitioner will file a better affidavit in this writ petition.

3. The issue that is involved in the present case was dealt with by me on an earlier occasion and my judgement was also followed subsequently by Hon'ble Justice V Lakshmi Narayanan. Those judgements shall also be produced during the next date of hearing.

4. Post this case under the same caption on 30.09.2024."



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4. Heard Mr.K.Shahul Hameed, learned counsel for petitioner, Mr.P.Manorajan, learned Standing Counsel appearing for first respondent, Mr.P.Anandakumar, learned Government Advocate appearing for second respondent and Mr.U.Baranidharan, learned Additional Government Pleader appearing for third respondent.

5. When the matter was taken up for hearing today, the counter affidavit of the first respondent and the better affidavit of the writ petitioner were filed before this Court.

6. The petitioner, in the better affidavit, has conceded to the fact that he had a live-in relationship with the said Saroja even when the first wife Dhanalakshmi was alive. The petitioner has further stated that he is not denying the marriage certificate that was produced by the respondents and which was attested by the Tahsildar on 23.02.2014. Thereby, the petitioner has admitted that he has married Saroja even when the first marriage was in subsistence. The petitioner has further stated that after the demise of his first wife in the year 2004, the petitioner continued to live with the said Saroja and a self-respect marriage was conducted on 02.09.2022 before the elders of the village.



7. The first respondent, in the counter affidavit, has stated that the marriage of the petitioner with Saroja when the first marriage was in subsistence is non-est in the eye of law and the same cannot result in a husband and wife relationship between the petitioner and the said Saroja as per law. The first respondent has also taken note of some of the earlier orders passed by this Court wherein it was held that the second marriage conducted during the subsistence of the first marriage is invalid and consequently, the second wife will not be entitled to claim for any service benefits or family pension. Accordingly, the first respondent has sought for the dismissal of this writ petition.

8. In the considered view of this Court, the marriage between the petitioner and Saroja that took place when the first marriage was in subsistence is non-est in the eye of law and the said marriage is a nullity. If that position had continued, the said Saroja may not be entitled to be recognized as a wife and she may not be entitled to receive the family pension after the life time of the petitioner. However, the undeniable fact is that the said Saroja continued to live with the petitioner after the demise of the first wife Dhanalakshmi in the year 2004. The petitioner also married the said Saroja through a self-respect marriage on



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02.09.2022 in the presence of elders. Even in the impugned proceedings dated 15.07.2024, it has been mentioned that a report has been submitted by the Tahsildar, Senthamangalam, to the effect that such self-respect marriage was held between the petitioner and Saroja on 02.09.2022 and the same was spoken to by the people belonging to that locality. Thus, it is quite evident that Saroja can be considered to be the legally wedded wife of the petitioner effective from 02.09.2022. In view of the same, the so-called earlier marriage of the petitioner with Saroja pales into insignificance and it will not stand in the way of the petitioner submitting proposal to add Saroja in the service records of the petitioner for the purpose of receiving the family pension after his life time. This is in view of the fact that Saroja has become a legally wedded wife of the petitioner from the year 2022 and such proposal has been given by the petitioner during his life time.

9. In the light of the above discussion, the impugned proceedings of the second respondent dated 15.07.2024 is hereby quashed. There shall be a direction to the second respondent to include the name of Saroja as nominee of the petitioner in the service records for the purpose of granting family pension in the event petitioner



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predeceases the said Saroja. Necessary entries in the service records of the petitioner shall be made within a period of four (4) weeks from the date of receipt of a copy of this order.

This writ petition is allowed with the above direction. No costs.

30.09.2024

Neutral Citation: Yes/No
Index: yes/no
Speaking Order/Non-Speaking Order
gm

To

- 1.The Principal Accountant General (A&E),
Chennai - 600 018.
- 2.The Revenue Divisional Officer,
Collectorate of Namakkal,
Namakkal.
- 3.The Treasury Officer,
Namakkal.



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N.ANAND VENKATESH, J

gm

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