



WEB COPY



W.P.No.30759 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.30759 of 2022

M.Parvathi

...Petitioner

-Vs-

1. The Principal Accountant General (A & E) Tamil Nadu,
O/o. The Principal Accountant General,
361, Anna Salai, Teynampet,
Chennai – 600 018.

2. The Block Educational Officer,
Gangavalli Block,
Salem District.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to pass orders restoring 100% family pension to the petitioner as sole surviving wife of Thiru.Maruthamuthu (Late) from the date of demise of Tmt. Koothayee in the year 2007, in consideration of representation submitted by the petitioner dated 03.06.2022 and 17.08.2022 within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.J.Jayamalan

For R1 : Mrs.Hema Muralikrishnan
Standing Counsel

For R2 : Mrs.R.L.Karthika
Government Advocate

ORDER



W.P.No.30759 of 2022

This writ petition has been filed for direction directing the respondents to pass orders restoring 100% family pension to the petitioner as sole surviving wife of Thiru.Maruthamuthu (Late) from the date of demise of Tmt. Koothayee in the year 2007, in consideration of representation submitted by the petitioner dated 03.06.2022 and 17.08.2022 within a time frame to be fixed by this Hon'ble Court.

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

3. The petitioner got married to one Maruthamuthu who was employed as Secondary Grade Teacher in Panchayat Union Middle School, Naduvalur, Gangavalli Block, Salem District. Originally, her sister got married to him, but in the absence of male issues, he also got married to the petitioner in the year 1977 and gave birth to two children. While being so, the said Maruthamuthu died in harness on 31.12.1981. After his demise, both the wives were sanctioned family pension of 50% each. Thereafter, the first wife died on 06.09.2007. Therefore, the petitioner submitted representation seeking full family pension.

4. The learned counsel for the petitioner would submit that Rule 49(7)(a)(1) of the Tamil Nadu Pension Rules says that where family pension is payable to more widows than one, the family pension shall be paid to the



W.P.No.30759 of 2022

widows in equal shares. On the death of a widow, her share of the family pension shall become payable to her eligible child, provided that if the widow is not survived by any child, her share of family pension shall be payable to the other widows in equal shares or if there is only one such widow, in full to her.

5. Whereas, a perusal of the counter filed by the first respondent revealed that already the petitioner submitted a representation for grant of full pension to her. The said request was rejected by an order dated 22.03.2021. A perusal of the said order dated 22.03.2021 revealed that the family pension is not payable to the second wife or children through her. Since the final clarification was issued in LR No.120770/A/PEN/92-3 dated 27.04.1993 with effect from 02.06.1992 in favour of second wife/children through second wife, such cases will not be reopened. But no fresh authorization will be issued to second wife on or after 02.06.1992. 100% restoration of family pension could not be authorized to second wife. Where a Government servant leaves behind more than one widow, the widows will be entitled to family pension 50% each only if the Government servant was a muslim or if the second marriage had taken place before the introduction of Hindu Marriage Act, 1955.

6. It is relevant to extract the explanation for Section 49(7)(a)(1) of



W.P.No.30759 of 2022

Tamil Nadu Pension Rules as follows:-

WEB COPY

“ As per explanation below Rule 49(7), the second wife shall be eligible for the benefits of family pension only if the second marriage

(i) solemnized as per the customary law prevailed among the community before the date of commencement of the Hindu Marriage Act, 1955 (Central Act 25 of 1955); or

(ii) solemnized under the Mohammadan Law in which bigamy is permissible. ”

7. Thus, it is clear that the second marriage solemnized as per the solemnized as per the customary law prevailed among the community before the date of commencement of the Hindu Marriage Act, 1955 (Central Act 25 of 1955); or the second marriage solemnized under the Mohammadan Law in which bigamy is permissible. Thus, only second wife shall be eligible for the benefit of family pension. However, by the clarification letter dated 27.04.1993, clarified that the clarificatory order issued in the Government Letter dated 02.06.1992 shall take effect from 02.06.1992 and that past cases already settled prior to 02.06.1992 need not be reopened.

8. Admittedly, the petitioner got married with the deceased Maruthamuthu as second wife, when his first marriage was very much in existence with one Koothayee. However, after the demise of the said Maruthamuthu, both the wives were granted family pension of 50% each. The first wife expired on 06.09.2007 and thereafter, the request made by the



W.P.No.30759 of 2022

petitioner was also duly rejected by an order dated 22.03.2021. However, it was not challenged in the manner known to law. After rejection of the claim made by the petitioner, once again, the petitioner made the very same request.

9. In view of the above explanation and clarification letter, the petitioner is not entitled for 100% of family pension and this writ petition is devoid of merits and is liable to be dismissed.

10. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

05.03.2024

Internet: Yes
Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non Speaking order
mn



WEB COPY



W.P.No.30759 of 2022

G.K.ILANTHIRAIYAN. J.

mn

To

1. The Principal Accountant General (A & E) Tamil Nadu,
O/o. The Principal Accountant General,
361, Anna Salai, Teynampet,
Chennai – 600 018.
2. The Block Educational Officer,
Gangavalli Block,
Salem District.

W.P.No.30759 of 2022

05.03.2024