



W.P.(MD).No.658 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 05.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.658 of 2023

and

W.M.P(MD) No.664 of 2023

S.Rajalakshmi

... Petitioner

Vs.

1. The Chief Internal Audit Officer,
Board Office Audit Branch,
TANGEDCO,
O.P.K.R.R.Maligai - 1st Floor,
144/800, Anna Salai,
Chennai.

2. The Superintendent Engineer,
Virudhunagar Distribution Circle,
TANGEDCO,
Virudhunagar,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings in Letter No.004884/194/F4/I.K.A No. 42683/2022, dated 30.03.2022 on the file of the first respondent and quash the same as illegal and consequently directing the respondent to disburse the monetary pension benefits to the petitioner.



W.P.(MD).No.658 of 2023

WEB COPY

For Petitioner : Mrs.V.Sebastinal Preethi

For R2 : Mr.S.Arivalagan

ORDER

The instant Writ Petition has been filed by the second wife of an employee of the respondent Corporation seeking to quash the order dated 30.03.2022, wherein the request for family pension has been rejected.

2. A perusal of the writ affidavit reveals that one Mr.Sankaralingam, working as an internal Auditor in the TANGEDCO had attained superannuation on 03.05.2022 and he has received all the terminal benefits. As per the affidavit, the employee was married to one Velammal and while she was alive, the petitioner has got married to the employee on 19.01.1987 with the consent of the first wife. The very averments in the writ affidavit clearly disclose that the employee had got married to the writ petitioner while the first marriage was subsisting. Citing the above said ground, the order impugned in the writ petition has been passed rejecting the request of the petitioner for family pension.



W.P.(MD).No.658 of 2023

WEB COPY

3. The Hon'ble Division Bench of our High Court in a judgment reported in **(2018) 5 Mad LJ 385 (R.Rajathi Vs. the Superintendent Engineer TANGEDCO Limited and another)** in paragraph No. 42 has held as follows:

“42. A substantially similar view has been expressed by another learned Judge of this Court in [P.Velammal v. The Additional Assistant Elementary Educational Office, Sivagangai District](#) in WP (MD) No. 3096 of 2016, wherein, after taking note of the provisions of [Section 5 \(1\)](#) of the Hindu Marriage Act, 1955, as well as the explanation added to Sub Rule 7 of Rule 49, the learned Single Judge has held as follows:

12. Law is settled that two Hindus cannot contract marriage after the enforcement of the [Hindu Marriage Act](#) and if any of them is having a living spouse, the marriage would be a nullity and would also not be protected under the Conduct Rules, as well as, the pension rules. Therefore, the “second wife” as referred to under the pension rules would only include second wife whose marriage is permissible under the Personal Law, but in the case of



W.P.(MD).No.658 of 2023

Hindus, the second wife will have no right, whatsoever, as the law prohibits second marriage, as long as, the Government servant has a spouse who is alive. Thus for harmonious construction of the Rules governing pension, wherever, the rule provides for wives, it has to be interpreted as per the law governing marriage as applicable to the Government servant and in cases where the second marriage is void under the law, second wife will have no status of a widow of the Government servant and relying on protection of [Women from Domestic Violence Act, 2005](#), in the opinion of this Court, is only taking a shelter.”

4. In view of the judgment of our High Court, the second wife, whose marriage is not valid, is not entitled to receive family pension from the respondent Corporation and there are no merits in this writ petition.



W.P.(MD).No.658 of 2023

WEB COPY

5. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

05.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi

To

1. The Chief Internal Audit Officer,
Board Office Audit Branch,
TANGEDCO,
O.P.K.R.R.Maligai - 1st Floor,
144/800, Anna Salai,
Chennai.
2. The Superintendent Engineer,
Virudhunagar Distribution Circle,
TANGEDCO,
Virudhunagar,
Virudhunagar District.



WEB COPY



W.P.(MD).No.658 of 2023

R.VIJAYAKUMAR,J.

ebsi

W.P(MD)No.658 of 2023

05.11.2024