



W.P.(MD)No.7557 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.7557 of 2024

and

W.M.P.(MD).No.6923 of 2024

M.Fathimuthu

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Finance Department,
Chennai – 600 009.
- 2.The Director,
Directorate of Local Fund Audit,
Integrated Complex for Finance Department,
Perasiriyar K.Anbazhagan Maaligai,
4th Floor,
Nandhanam,
Chennai – 600 006.
- 3.The Deputy Director,
Office of Examiner of Local Funds Accounts, (Municipal Pension)
Directorate of Local Fund Audit,
Integrated Complex for Finance Department,
Perasiriyar K.Anbazhagan Maaligai,
4th Floor,
Nandhanam,
Chennai – 600 006.



W.P.(MD)No.7557 of 2024

4.The Municipal Commissioner,
Kovilpatti Municipality,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the second respondent pertaining to the impugned order of the second respondent in O.Mu.No.18159/Na.Oa.sa(3)/2022 dated 28.04.2023 passed on 20.07.2023, quash the same and consequently direct the respondents to grant family pension to the petitioner arising out of the Tamil Nadu Local Body Employees Pension fund of the petitioner's deceased father N.M.Mohammed Iqbal, with all consequential monetary benefits.

For Petitioner : Mr.M.Musthafa Khan

For R-1 to R-3 : Mr.J.Ashok
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking to quash the order of the second respondent dated 28.04.2023 passed on 20.07.2023 and consequently direct the respondents to grant family pension to the petitioner arising out of the Tamil Nadu Local Body Employees Pension fund of the petitioner's deceased father N.M.Mohammed Iqbal, with all consequential monetary benefits.



W.P.(MD)No.7557 of 2024

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2. Heard Mr.M.Musthafa Khan, learned counsel for the petitioner and Mr.J.Ashok, learned Additional Government Pleader for the respondents 1 to 3.

3. Mr.M.Musthafa Khan, learned counsel for the petitioner submitted that the petitioner whose request for family pension was rejected on the ground that the petitioner is not eligible to get the family pension as she was not the unmarried / widow/ divorce daughter of the deceased Government employee. Even according to the petitioner, the petitioner is not an unmarried/widow/divorce daughter of her deceased father, but she was deserted by her husband. A certificate has been granted by the local Tahsildar on 06.10.2016 that the petitioner was deserted by her husband Syed Ibrahim for nearly 24 years. As of now, the petitioner's age is said to have been 60 years. The petitioner's father who was a Government employee had attained the age of superannuation on 31.05.1989 and died on 25.12.2011. So, the learned counsel for the petitioner submitted that the petitioner was under the care and custody of her father after she was deserted by her husband. The petitioner had two daughters who are aged about 27 years and 29 years respectively. The



W.P.(MD)No.7557 of 2024

petitioner preferred a representation dated 13.02.2018 and also made an application dated 01.03.2022 requesting the authorities to grant family pension and the same was rejected by the second respondent through his impugned order dated 28.04.2023 citing the Government Order in G.O.Ms.No.325 dated 28.11.2011 which is applicable only to an unmarried / divorced / widow daughter of a deceased Government employee and that the petitioner being a deserted destitute daughter of a deceased Government employee, she is not entitled to get benefits under the said Government Order. Aggrieved over the same, the petitioner has come before this Court by way of filing this Writ Petition.

4. Mr.M.Musthafa Khan, learned counsel for the petitioner drew the attention of this Court to the earlier judgment rendered by this Court in ***W.P.(MD).No.21964 of 2023 dated 02.11.2023*** in the case of ***A.Jasintha Vs The Principal Accountant General (A&E), O/o. The Principal Accountant General (A&E), Tamil Nadu, No.361, Anna Salai, Chennai – 18***, wherein it is held as under:

“20.As far as the instant case is concerned, the objective sought to be achieved is to extend the benefit of family pension to the destitute daughters of deceased pensioners who are



W.P.(MD)No.7557 of 2024

beyond the age of 25 years with effect from 28.11.2011. When the object sought to be achieved is to extend the benefit of family pension to destitute daughters, the classification of daughters into unmarried daughters/widowed daughters/divorced daughters thereby excluding the benefit of family pension to deserted daughters, who would fall under the category of destitutes is absolutely arbitrary and discriminative. The right of livelihood is an integral facet of right to live. The word 'law' which figures in Article 21 of Constitution should be just, fair and reasonable. Hence, G.O.Ms.No.325 Finance (Pension) Department dated 28.11.2011 to be just fair and reasonable should be given a liberal interpretation."

5. After having given a wider interpretation to the application of Government Order in G.O.(Ms).No.325 Finance Pension Department dated 28.11.2011, this Court ordered to extend the benefit of family pension to a daughter who was deserted by her husband.

6. In the above said case, the petitioner therein is said to have married one Srilankan and she was deserted by him. 'One size fit for all' approach cannot be applicable, as the fact situation differs from case to case. If the deserted daughter of the deceased Government employee has



W.P.(MD)No.7557 of 2024

got her own children who are capable of making their own livelihood and also maintaining their mother, then she cannot be brought under the ambit of the above Government Order.

7. In the light of the earlier order passed in W.P.(MD).No.21964 of 2023 dated 25.09.2023, this Writ Petition is **disposed of** with a direction to the the respondents to reconsider the representation of the petitioner in accordance with the socio-economic background and all other relevant factors and pass a reasoned order within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

24.04.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



W.P.(MD)No.7557 of 2024

To:

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W.P.(MD)No.7557 of 2024

R.N.MANJULA, J.

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W.P.(MD)No.7557 of 2024

24.04.2024