



W.P(MD)No.13153 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.13153 of 2022 and
WMP(MD) Nos.9344 & 9347 of 2022

Regina Begum.M

... Petitioner

Vs

1.The Pricipal Accountant General (A& E),
O/o. Principal Accountant General,
Annasalai,
Teynampet,
Chennai - 600 018.

2.The Internal Audit Officer (Pension),
O/o, the Internal Audit Officer (Pension),
Audit Branch,
144, Anna Salai,
Chennai - 2.

3.The Assistant Internal Officer,(Computer Section),
Audit Branch / TANGEDCO
144, Anna Salai,
Chennai - 2.

4.The Superintending Engineer,
TANGEDCO,
Tirunelveli Distribution Circle,
Tirunelveli District.

...Respondents



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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 relating to the impugned order passed by the first respondent vide his proceedings in Letter No. 16926/501 and 028084/751/F.8/F.82/PPO No.20097/2021 dated 27.09.2021 and consequential impugned proceedings passed by the third respondent vide his proceedings in Se.Aa.No. 027832/1366-2/NiPi-2/U.3/Ko.Gu.Oivu/2022 dated 25.02.2022 and quash the same as illegal and consequentially to direct the respondents to sanction the family pension and arrears of pension along with the accrued interest thereon and disburse the same to the petitioner within the period that may be stipulated by this Court.

For Petitioner	: Mr.H.Mohammed Imran for M/s. Ajmal Associates
For R1	: Mr.P.Gunasekaran
For R2	: No appearance
For R3 & R4	: Mr.S.Arivalagan

ORDER

The petitioner's father, namely, U.Mohamed Sulaiman was an employee of TANGEDCO and he retired from service on 31.03.1996 on attaining the age of superannuation. He received



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monthly pension till his demise on 31.01.2011. After that, the petitioner's mother was provided with family pension. The petitioner is the only daughter of the deceased U.Mohamed Sulaiman. She was married to one Jakir Hussain, however it was dissolved subsequently, by pronouncing Talaq. The petitioner's mother passed away on 15.07.2014. Thereafter, the petitioner was receiving family pension in the capacity of a divorcee, as per the Government Order in G.O.Ms.No.325, Finance (Pension) Department, dated 28.11.2011, which enables the unmarried/widowed/divorced daughters of the deceased employee to receive family pension. While so, the family pension sanctioned to the petitioner was stopped and therefore, she has submitted a representation to the respondents, for which, a proceedings in 16926/501 and 028084/751/F.8/F.82/PPO No.20097/2021 dated 27.09.2021 has been issued by the Internal Audit Officer (Pension), Audit Branch/the second respondent herein stating that the family pension provided to the petitioner was cancelled on the ground that she was divorced after the demise of the pensioner (petitioner's mother) and



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therefore, the family pension cannot be continued to be disbursed.

The stoppage of family pension to the petitioner was also confirmed by the Superintending Engineer, TANGEDCO, Tirunelveli Distribution Circle, Tirunelveli District by his proceedings in Se.Aa.No.027832/1366-2/NiPi-2/U.3/ Ko. Gu. Oivu/2022 dated 25.02.2022. Challenging the same, the petitioner has approached this Court in the year 2022.

2.The learned counsel appearing for the petitioner submits that though the petitioner was divorced by her husband on 12.08.2013 by pronouncing Talaq, it has been confirmed by the Principal District Munsif, Valliyoor in O.S.No. 169 of 2015 only on 21.08.2015. Therefore, according to the learned counsel, the petitioner is eligible for family pension by considering the date of pronouncement of Talaq. The learned counsel further submits that though the petitioner was provided with family pension, it was subsequently reviewed by the Department, based on the Government Order in G.O.Ms.No.337, Finance (Pension) Department, dated



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14.11.2017. As per the aforesaid Government Order, there was a ceiling limit of Rs.2,250/- per month in the year 2016, when family pension has been sanctioned to this petitioner. The respondents have already sanctioned family pension to this petitioner, however, without issuing any notice and without providing an opportunity, it was stopped. Since the impugned order is a non-speaking order without any discussion/ reference to G.O.Ms.No.337, Finance (Pension) Department, dated 14.11.2017, it is liable to be set aside on the ground of violation of principles of natural justice. He further submits that the aforesaid Government Order is prospective from the date of issuance and the same cannot be referred to the date of sanction of pension to this petitioner.

3.The learned Standing Counsel appearing for the respondents 3 & 4 submits that this petitioner is having a property worth about more than Rs.5 Crores. However, without considering the same, family pension was granted to this petitioner. According to him, the assignment of property worth about Rs.5 Crores to this



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petitioner is recorded in the Talaq proceedings dated, 12.08.2013.

Since this petitioner is having more income, which is more than the norms fixed by the Government, the sanctioned family pension was reviewed by the authorities and it has been stopped as per the guidelines issued by the Government in G.O.Ms.No.337 Finance Pay Cell Department dated 14.11.2017.

4.This Court considered the rival submissions made and also perused the materials placed on record.

5.Family pension sanctioned to the petitioner after the demise of his father, an employee of TANGEDCO has been stopped by the respondents on the ground that she is ineligible to receive the family pension of her father. According to the petitioner, her father, who was an employee of TANGEDCO retired from service on 31.03.1996 and he was receiving pension. After his demise, his wife/the petitioner's mother was receiving family pension. Subsequently, she also died on 15.07.2014. The petitioner claims



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that she is a divorcee and therefore, she has submitted an application for family pension before the respondents. The petitioner as well as the respondents are not aware of the date, on which the application has been made. However, the said application submitted by the petitioner was considered by the respondents and she was provided with family pension by a proceedings of the respondents in T.O/Pro.No.002288/74-4/AdmII/A3/2016, dated 12.08.2016, in and by which, she was sanctioned with family pension for a sum of Rs.3,050/- per month. Subsequently, the order of grant of family pension has been reviewed by the respondents based on the Government Order in G.O.Ms.No.337, Finance (Pension) Department, dated 14.11.2017. The Government, vide Government Orders in G.O.Ms.No.327, Finance (Pension) Department, dated 30.08.2001 and G.O.Ms.No.325, Finance (Pension) Department, dated 28.11.2011, fixed a sum of Rs. 2,250/- per month for an eligibility of family pension for widowed/divorced daughters and unmarried / widowed/ divorced daughters above 25 years. This has been subsequently reviewed by the Government by appointing a



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Official Committee in the year 2017. The Committee has made certain recommendations on 27.09.2017 for enhancing the income ceiling limit for eligibility of family pension other than spouse from Rs.2,250 per month to Rs.7,850/- per month. This recommendation was accepted by the Government vide G.O.Ms no.337, dated 14/11/2017. By referring G.O.Ms.No.337, Finance (Pension) Department, dated 14.11.2017, the second respondent has reviewed the earlier order of pension sanctioned to this petitioner in the year 2016 and it has been stopped, by the order impugned in this writ petition. The petitioner claims that though the pronouncement of talaq was on 12.08.2013, it was confirmed by a Court of law, namely the Principal District Munsif, Valliyur in O.S.No.169 of 2015 only on 21.08.2015. Therefore, by considering the date of pronouncement of Talaq, the petitioner is entitled to receive family pension. It is also claimed by the petitioner that the impugned order is a non-speaking order. On the side of the respondents, it is claimed that certain income criteria has been fixed by the Government to provide family pension to the widowed/divorced daughters and unmarried /



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widowed/ divorced daughters above 25 years. This petitioner is having a property worth about more than Rs.5 Crores and since this petitioner is having more income than the norms fixed by the Government, family pension was reviewed by the respondents and it has been stopped as per the guidelines issued by the Government in G.O.Ms.No.337, Finance (Pension) Department, dated 14.11.2017.

6.As rightly pointed out by the learned counsel for the petitioner, it appears that this impugned order has been passed without any discussion and without issuing any notice to this petitioner. The impugned order has been passed simply by referring to G.O.Ms.No.337, Finance (Pension) Department, dated 14.11.2017, without any discussion as to the applicability of the said Government order to the petitioner's case.

7.Since the impugned orders have been passed without providing an opportunity to this petitioner, this Court is inclined to set aside the impugned orders, with liberty to the respondents 3 & 4



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to conduct a fresh proceedings, by issuing a notice to this petitioner and pass a detailed order as to her eligibility of family pension, in the light of the relevant Government Orders.

8. Accordingly, this writ petition is allowed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

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NCC:Yes/No

Index:Yes

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To

WEB COPY

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B.PUGALENDHI, J.

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