



W.P(MD)No.16229 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2024

CORAM :

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.16229 of 2022

Savithri

... Petitioner

Vs

1. The Superintendent of Police,
Dindigul District.

2. The Inspector of Police,
Koombur Police Station,
Dindigul District.

3. Murugaranchitham

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 1st respondent to consider the petitioner representation dated 06.07.2022 within a stipulated time period in accordance with law.

For Petitioner : Mr.Senthil Murugan.C,

For R1 & R2 : Mr.S.Shaji Bino
Special Government Pleader

For R3 : Mr.A.K.Baskara Pandian



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ORDER

The instant writ petition has been filed seeking to consider the representation of the writ petitioner, dated 06.07.2022, for the purpose of payment of family pension.

2.A perusal of the paragraph No.2 of the affidavit reveals that the petitioner has admitted that she is the second wife of the deceased and the third respondent in the writ petition is the first wife. The petitioner's representation is for considering her request for disbursement of family pension in her favour. The Hon'ble Division Bench of our High Court, judgment reported in **2018-1-Writ L.R.725**. The relevant portion runs as follows:

"42. We have discussed the basis on which the various judgments, of course conflicting views, have been rendered. Insofar as the view that the second wife of the Government Servant, who died prior to 02.06.1992 as held in Tamilselvi's case, referred to supra, and the view that a widow of an invalid second marriage that had taken place prior to 14.10.1991, as held in Pushpavalli's case, have given our reasons, as to why, we are unable to subscribe to the said

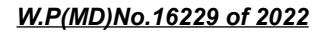


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conclusions of the learned Single Judge. We are, therefore, of the opinion that in order to enable a second wife to claim family pension the marriage should have been valid under the Personal Law applicable to the parties, to hold otherwise would be in violation of the law of the land, viz. the Personal Law of the parties as well as the Criminal Law, which prohibits bigamous marriage.

43. We are, therefore, constrained to conclude that the judgments which conclude that a second wife would be entitled to family pension, irrespective of her marriage being void, under the provisions of their relevant Personal Law's applicable to the parties do not reflect the correct position of law and therefore will stand overruled. The applicability of Sub Rule 7 (a)(i) is confined only to cases where the second marriage is valid under the Personal Law applicable to the parties, only in such cases, widows of such marriages would be entitled to family pension."

3.It is an admitted fact that the petitioner is the second wife and in view of the judgment of the Hon'ble Division Bench, this Court is of the opinion that the petitioner does not have any legal right to claim the family pension. Therefore, the petitioner is not legally entitled for the family pension. As far as the other dispute between the parties are concerned, it is for the petitioner to approach the competent civil Court



of. No costs.

07.08.2024

LR

2. The Inspector of Police,
Koombur Police Station,
Dindigul District.



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R.VIJAYAKUMAR, J.

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