



W.P.(MD) No.19244 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.19244 of 2022

Rajaselvi

...

Petitioner

-VS-

1.The Principal Accountant General,
(A and E) Tamilnadu,
No.361, Anna Salai,
Chennai - 600 018.

2.The Chief Educational Officer,
Tirunelveli - 627 001.

3.The District Educational Officer,
Cheranmahadevi,
Tirunelveli District - 627 414.

4.The Secretary,
PLWA Higher Secondary School,
Vikramasingapuram,
Tirunelveli District - 627 425

...

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India,
praying for issuance of a writ of certiorarified mandamus to call for the records



W.P.(MD) No.19244 of 2022

WEB C

relating to the impugned order, dated 26.04.2022, in Oo.Moo.No. 932/Aa2/2022 on the file of the 3rd respondent and quash the same as illegal and further direct the 3rd respondent to forward the petitioner's proposal for family pension to the 1st respondent and direct the 1st Respondent to disburse the entitled family pension to the petitioner with interest.

For Petitioner : Mr.S.Loganathan

For Respondents 1 to 3 : Mr.J.Ashok,
Addl. Govt. Pleader.

ORDER

The instant Writ Petition has been filed by a widowed daughter, challenging the order passed by the third respondent herein, rejecting the request of the writ petitioner, seeking family pension.

2. The petitioner's father was working as a Drawing Master in a private aided school and he attained superannuation on 30.04.1993. The petitioner's father and mother passed away on 21.12.2018, leaving behind their daughters, namely, (1) Rajaselvi (petitioner), (2) Ramapushkala, (3) Rajeswari and (4) Ramasubha.



W.P.(MD) No.19244 of 2022

WEB COPY

3. The petitioner lost her husband on 15.02.2020. The petitioner is also a physically challenged person. Being a disabled widowed daughter, she approached the respondent authorities for recommending her name for receipt of family pension, based on G.O.Ms.No.65, Finance (Pension) Department, dated 10.03.2003. On 26.04.2022, the third respondent has passed the impugned order, rejecting the request of the petitioner on the ground that during the lifetime of her father and mother, she was not dependent upon them. In fact, she had lost her husband two years after the death of her parents. Challenging the said order, the present writ petition has been filed.

4. According to the learned counsel appearing for the writ petitioner, as per G.O.Ms.No.325, Finance (Pension) Department, dated 28.11.2011, the petitioner is eligible for receipt of family pension after the death of her mother, in view of the fact that she is not only disabled but also a widowed daughter.

5. Per contra, learned Additional Government Pleader appearing for the respondents pointed out that G.O.Ms.No.325, Finance (Pension) Department, 28.11.2011, has been superseded by G.O.Ms.No.337, Finance (Pay Cell) Department, dated 14.11.2017, and, as per the said Government



W.P.(MD) No.19244 of 2022

Order, unless the person, claiming family pension, was dependent upon the deceased family pensioner while the family pensioner was alive, the question of extending the benefit of family pension to that particular person would not arise. The learned Additional Government Pleader also relied upon a judgment of a single judge of this Court in W.P.(MD) No.9290 of 2024, dated 16.04.2024, in support of his case.

6. I have carefully considered the submissions made on either side and also perused the material available on record.

7. The petitioner's father had retired from service on 30.04.1993 and both of her parents died on 21.12.2018. The petitioner's husband also passed away on 15.02.2020. The petitioner is a physically challenged person. These facts are not in dispute.

8. When the parents of the petitioner had passed away, the G.O.Ms.No.337, Finance (Pay Cell) Department, dated 14.11.2017, was in force. A perusal of the said G.O. reveals that unmarried/widowed/divorced daughters, even after attaining the age of 25 years, would be eligible to receive family pension, provided they were wholly dependent upon the Government



W.P.(MD) No.19244 of 2022

servant / Pensioner ,when he/she was alive. Therefore, it is clear that unless a person, claiming family pension, was dependent upon the pensioner/family pensioner during his or her lifetime, the said person would not be entitled to seek family pension. In the present case, the petitioner was not dependent upon her father or mother during their lifetime. She lost her husband two years after the date of death of her parents.

9. Based upon the physical disability or marital status of the petitioner, if family pension is extended to the petitioner, it will result in reviving of the stopped pensions after so many years in favour of daughters, who lost their husbands at a later point of time. Therefore, such an interpretation is not legally sustainable.

10. In view of the above deliberations, there is no merit in the present Writ Petition. Writ Petition stands dismissed accordingly. No costs.

12.08.2024

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

dixit



WEB COPY



W.P.(MD) No.19244 of 2022

To:

- 1.The Principal Accountant General,
(A and E) Tamilnadu,
No.361, Anna Salai,
Chennai - 600 018.
- 2.The Chief Educational Officer,
Tirunelveli - 627 001.
- 3.The District Educational Officer,
Cheranmahadevi,
Tirunelveli District - 627 414.



WEB COPY



W.P.(MD) No.19244 of 2022

R.VIJAYAKUMAR, J.

dixit

W.P.(MD) No.19244 of 2022

12.08.2024