



W.P(MD) No.18334 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.10.2024

Delivered on : 06.11.2024

CORAM

THE HON'BLE MS.JUSTICE R. POORNIMA

W.P(MD) No.18334 of 2016
and
W.M.P.(MD)No.18576 of 2023

Ariyamala

... Petitioner

Vs

1. The Accountant General (Pension) (A&E),
No.361, Annasalai,
Chennai – 600 018.

2.The District Educational Officer,
Trichy District, Trichy.

3.The Headmaster,
Government Higher Secondary School,
Peruvallappur,
Lalkudi Taluk,
Trichy District.

4.The Treasure Officer,
Sub Treasury Office,
Lalgudi, Trichy 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 of the third respondent in proceedings No.Na.Ka. No. 59/2016, dated 20.04.2016 and to quash the same as illegal and without jurisdiction and further direct the respondents to sanction the family pension to the petitioner from the date of death of her husband – Chinnayan, who retired as Special Grade Sweeper in the third respondent School within a time stipulated by this Court.

For Petitioner : Mr.S.Mandhiralingeswaran

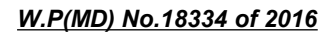
For Respondents : Mr.P.Gunasekaran – for R1

Mr.M.Senthil Ayyanar – for R2 to R4

Government Advocate

ORDER

This Writ Petition is filed by the petitioner with a prayer to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent in proceedings No.Na.Ka. No.59/2016, dated 20.04.2016 and to quash the same as illegal and without jurisdiction and further direct the respondents to sanction family pension to the petitioner from the date of





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4. The petitioner's husband showed her elder sister as nominee in the pension payment order. But, her sister died on 27.04.2005. The Revenue Department issued a death certificate on 22.06.2005. The Tahsildar of Lalgudi had issued a legal heir ship certificate on 19.08.2005, showing herself, her husband and one Anbarasi, who is the daughter born through the wed log between her husband and her elder sister as legal heirs. After the death of her elder sister, Chinnayan married her on 01.05.2005 in the presence of the elders of her village.

5. The petitioner further stated that her husband has died on 01.12.2005 and death certificate was issued by the Deputy Tahsildar of Lalgudi, on 12.01.2006 and legal heir ship certificate also issued by the said Tahsildar on 01.02.2006, showing herself and one Anbarasi, born through her sister and her husband as legal heirs.

6. She further stated that she being illiterate and and not having worldwide knowledge about the pension payable to her husband, she was not able to approach the authorities requesting for payment of the same.



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7. On 09.12.2013, the fourth respondent / Sub Treasury Officer, has sent a letter to her, requesting her to bring the pension book and bank passbook to his office. Accordingly, the petitioner visited the office of the fourth respondent along with documents. The fourth respondent informed her to approach the third respondent / Head Master of School, where her husband lastly worked as a Special Grade Sweeper, to process the papers for payment of family pension. She had made an application to the third respondent on 17.01.2014, to take necessary steps to arrange the payment of family pension to her due to the death of her husband - Chinnayan.

8. The third respondent had sent a letter to the petitioner on 31.01.2014, informing her that the third respondent do not have powers to recommend for payment of family pension and asked her to approach the fourth respondent for payment of family pension.

9. Hence, she once again made representation to all the respondents requesting them to arrange payment of family pension to her.



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No action have been taken and therefore she filed W.P.(MD)No.13901 of 2015, to consider her representation dated 25.06.2015. This Court pleased to pass order, directing the respondents to consider her representation dated 25.06.2015 and pass orders on merits in accordance with law within the period of six weeks from the date of receipt of copy of the order on 08.03.2016.

10. In view of the direction issued by this Court, the third respondent himself visited the Village, wherein the marriage happened and got the information from the in-charge of the Temple that there was no marriage solemnized between Chinnayan and the power as per the register available with the Temple Administration and based on such information, the third respondent / Head Master of the School had passed the impugned order by rejecting the claim of the petitioner for payment of family pension. Against which, she preferred the Writ Petition challenging the order of the third respondent for the following among other grounds:

(a) That the impugned order of the 3rd respondent is arbitrary,



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illegal and without jurisdiction and hence the same is liable to be set aside.

(b) That the impugned proceedings of the third respondent is against the principles of natural justice. The 3rd respondent has not provide her opportunity of hearing before passing the impugned order.

(c) That the impugned proceedings are liable to be struck down for the reason that without applying his mind and without considering the legal heirship certificate issued by the Tahsildar of Lalgudi, dated 01.02.2006, in which, the petitioner's name shown as the wife of Late Chinnayyan.

(d) That the 3rd respondent has exceed his jurisdiction, because deciding authority of legal heirship of deceased employee not vested with the 3rd respondent.

(e) That the 3rd respondent is bound by the legal heir ship certificate issued by the Tahsildar and the 3rd respondent has no jurisdiction to question the correctness of the legal heirship certificate issued by the Tahsildar.



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11. The learned counsel appearing for the petitioner argued that the petitioner, married the pensioner – Chinnayyan, after the death of his first wife Chellammal, her elder sister which is evident by the marriage invitation printed for the wedding. The legal heirship certificate issued by the Tahsildar, Lalgudi, dated 01.02.2006 also proved that she is wife and the legal heir of late Chinnayan But, the third respondent without having any right to question the legal heir ship certificate issued by the Tahsildar, simply rejected the same by obtaining a letter from the Temple authority, who had stated that no such marriage took place in the temple as per their register. The Tahsildar, who had enquired the village and after confirming the same after satisfying that Thiru.Chinnayyan married the petitioner had issued legal heir certificate to the petitioner. The first respondent has no authority to discard the same and rejected her application, which is arbitrary and illegal and liable to be set aside. He had passed order against the principles of natural justice and prayed that the proceedings issued by the third respondent is liable to be struck down as he had passed an erroneous order without applying his mind, without considering the legal heir certificate issued by the Tahsildar, in which



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her name has been shown as wife. The authority exceeded his jurisdiction.

12. The learned Government Advocate appearing of the State argued that as per the record, the first wife of Chinnayyan died on 27.04.2005 and it was stated by the petitioner that within 6 days, after the death of the said Chellammal, he married the petitioner, which is not possible. Further the temple authority also clearly issued a letter by stating that the marriage was not held in their temple and therefore the application was rejected by the third respondent, there is no merit in the appeal and prayed that this writ petition is liable to be dismissed

13. Heard both sides.

14. Originally, the fourth respondent viz the Assistant Treasury Officer vide his letter dated 09.12.2013 requested the writ petitioner to bring the pension book and bank pass book to his office. Accordingly, the petitioner visited the fourth respondent with required documents, in



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turn the 4th respondent informed her to approach the third respondent Head Master of the school where her husband lastly worked as a Special Grade sweeper to process the papers for payment of family pension. Therefore she made an application on 17.01.2014 to the Headmaster with request to issue pension. With that application, she had enclosed the death certificates of her elder sister Chellammal, Thiru. Chinnayyan, marriage invitation card, marriage photo along with letter issued by the Assistant Accounts Officer, Treasury, four passport size photographs etc.

15. The third respondent viz Head Master returned the above application on 31.01.2014 by stating that he is not a competent authority to issue the pension and directed her to approach the Sub Treasury Officer. Therefore, again on 19.02.2014, she made a representation to the Assistant Treasury Officer with request to issue pension..

16. In page No.24 of the typed set submitted by the writ petitioner shows that it was received by the Assistant Treasure Officer on



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20.02.2014. The said Assistant Treasury Officer, vide letter dated 01.04.2014 vide மு.மு.எண்.0316/2014/A1, returned the application by stating that the application should be forwarded to the office where the pensioner worked lastly. Again, she made a request on 25.06.2015 to the respondents 1 to 4 with request to pay the pension to her and it also reveals that the same was received by all the respondents. Since she has not received any order from the aforementioned persons, she had approached this Court previously in W.P.(MD)No.13901 of 2015, with prayer to direct the first respondent to pay the monthly pension to the petitioner by considering the representation made by her dated 25.06.2015, within the stipulated period. The Hon'ble court without going into the merits of the claim, directing the respondents to consider the representation of the petitioner and to pass order within a period of six weeks from the date of the order.

17. The petitioner produced the proceedings of the Head Master, Peruvallappur Government Higher Secondary School, in Na.Ka.No. 59/2016 dated 20.04.2016, wherein, it was stated that as per the direction



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of this Court, he had perused the service record (under Tamil Nadu Pension Rule, 1956), and found that Thiru.Chinnayyan, pensioner, retired from service on 31.08.2000, in that Smt.Chellammal–wife and Anbarasi–daughter alone were nominated by the pensioner.

18.As per the petitioner, the pensioner – Chinnayyan before marrying her, married her elder sister Chellammal and had a daughter by name Anbarasi and during life time of Chellammal, she was also living with her sister and her family. However her elder sister died on 27.04.2005 thereafter, she married Chinnayyan on 01.05.2005. She also enclosed the copy of invitation of their marriage which was solemnized on 01.05.2005, in Pullampadi Swamy Temple. She further stated that her husband died on 01.12.2005, to prove this, she enclosed the death certificate and legal heirship certificate of her husband Chinnayyan. As per the legal heirship certificate issued by the Tahsildar, Lalgudi, it is clearly mentioned that she is the wife of Chinnayyan.

19. But, it is the contention of the respondent No.3 that as per the



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letter received from the Manager of Pullampadi Sri Karuppana Swamy Temple, no such marriage took place between one Chinnayan and the petitioner - Ariyamala and therefore, the third respondent came to the conclusion that the information furnished by the petitioner is false one and she is not entitled for pension and rejected her application for pension.

20.This court further noticed from the records that the petitioner had also enclosed in the typed set, the ration card of Chinnayan issued by the Civil Supplies and Consumer Protection Department for the period 2005-2009, in which, her name is find a place along with Chinnayyan, Chellammal. An invitation card also produced by the petitioner shows that marriage between the petitioner and Chinnayyan was held on 01.05.2005 at Pullampadi Sri Karuppana Swamy Temple between 09.00 – 10.30 am. The death certificate of her sister – Chellammal issued by the Head Quarters Deputy Tahsildar, Lalgudi, in Form No.10, Brg No.1480/2005, shows that Chellammal, who is the sister of the petitioner, died on 27.04.2005. The legal heirship certificate issued by the



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Tahsildar, Lalgudi on 19.08.2005, vide ப.மு.எண்.அ3/5624/2005, shows for the said Chinnammal reveals that Chinnayyan, Anbarasi, Ariyamala (petitioner herein) are the legal heirs of the said Chinnammal.

21.The petitioner also enclosed the death certificate of Chinnayyan issued by the Head Quarters Deputy Tahsildar, Lalgudi, shows that the said Chinnayyan died on 01.12.2005. Subsequent to his death, legal heirship certificate was also issued by the Tahsildar, Lalgudi on 01.02.2006, vide ப.மு.எண்.அ3/657/2006, in which it was mentioned that the petitioner is the wife of Late.Chinnayyan one daughter by name Anbarasi are the legal heirs of said Chinnayan. The petitioner produced a letter issued by the President of Village, stated that the petitioner is the wife of Thiru. Chinnayyan. The documents produced by the petitioner proved that the petitioner is the legally wedded wife of Late.Chinnayan , pensioner bearing No.C 101705/EDG, dated 07.08.2000.

22. As per the direction made by the learned Single Judge of this Court in writ petition in W.P(MD)No.13091 of 2015, dated 08.03.2016,



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the third respondent passed an order by rejecting her application by stating that he had received letter dated 01.05.2005 from the Administration of Pullampadi Sri Karuppana Swamy Temple, in which it was stated as per the records maintained by the temple authorities no entry found to show that the marriage between the petitioner Arya Mala and Chinnyyan was held in their temple. The letter issued by the Administrator – Thiru Ravikumar, on 07.04.2016 also produced on behalf of the third respondent.

23. As per the petitioner, she married Thiru.Chinnayyan, after the death of her sister, on 01.05.2005. The death certificate shows that the said Chinnayyan died on 01.12.2005 within seven months from the date of alleged marriage, but, without any delay, the petitioner obtained legal heir certificate on 01.02.2006, in which, it clearly mentioned that the said Ariyamala (petitioner herein) is the wife of the deceased – Chinnayyan. The legal heir certificate is a document issued by the Revenue Authorities and Tahsildar, who is the competent authority to issue the same, to establish the relationship and the legal heirs of deceased



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Chinnayyan. It was mentioned that the certificate was issued to transfer the ownership or any other requirement for change of name, change of pension etc., which clearly shows that the petitioner in order to transfer the pension benefit, had applied for the legal heir certificate.

24. The Tahsildar is the appropriate authority to issue legal heir certificate. The certificate is used to identify the legal heir of the deceased person. The first respondent relied upon the letter issued by the Officer of the Temple, who had stated that as per the register maintained by the temple authority, there is no entry of marriage when was alleged to have been taken place between Thiru.Chinnayyan and Ariyamala, rejected the application. Normally, the Tahsildar issued the legal heirship certificate based on the report submitted by the Revenue Inspector as well as the Village Administrative Officer, who is having knowledge about the affairs of the villagers. Further the President of said village also issued a certificate that both Chinnayan and the petitioner were married.



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25. Therefore, the Court hold that Head Master, who has no authority to reject the application, only on the basis of the letter issued by the temple authority he has no authority to make investigation about the legal heir of Late.Chinnayan, when the legal heirship certificate is available. If he had any doubt, he must challenge the same in appropriate forum in the manner known to law, but he has no authority to neglect the same.

26. It is clearly revealed from the record that the petitioner obtained legal heir certificate without any delay but there is a delay in applying for pension, for which, she clearly stated that she is an illiterate lady and not having worldwide knowledge about the procedure. When she had approached the fourth respondent, she was directed to bring the pension book, passbook, etc. Subsequently, he had in turn, requested her to approach the third respondent/ Head Master, where her husband lastly worked as a Special Grade Sweeper. Therefore, she made an application on 17.01.2014 to the third respondent and the third respondent sent a letter to her on 31.01.2014, informed that he did not



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have any authority to recommend for payment of pension and requested to approach the fourth respondent. She once again made representation to the fourth respondent on 19.02.2014 and she was again directed to approach the first respondent – Accountant General (Pension) (A&E), through the fourth respondent, she once again approached to all the respondents. She was made to run from pillar to post but no action was taken for no reply letter sent by the authority. Since no action was taken by the authorities at last, she approached the court for direction, The court by its order dated 08.03.2016 directed the authorities to consider her application.

27. After direction of the Court, the third respondent rejected her application by stating that she is not the legal wife of Chinnayan, which is not correct.

28. It is the duty of the third respondent to accept the certificate issued by the Tahsildar and without challenging the validity, he has no right to visit the temple authority and made enquiry. Therefore, the order



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passed by the third respondent is illegal.

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29. Therefore, the Writ Petition stands allowed and the order of the third respondent is hereby quashed. The respondents are directed to accept the representation of the petitioner and to issue pension from the date of death of her husband within a period of eight (8) weeks from the date of receipt of copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

06.11.2024

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

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1. The Accountant General (Pension) (A&E),
No.361, Annasalai,
Chennai – 600 018.
2. The District Educational Officer,
Trichy District, Trichy.
3. The Headmaster,
Government Higher Secondary School,
Peruvallappur,
Lalkudi Taluk,
Trichy District.
4. The Treasure Officer,
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R.POORNIMA, J.

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