



W.A.(MD) No.1542 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2024

CORAM

JUSTICE N. SESHASAYEE

and

JUSTICE P.VADAMALAI

W.A.(MD) No.1542 of 2019

and

C.M.P.(MD) No.12300 of 2019

R.Manikandan

... Appellant/Petitioner

Vs.

1.The Accountant General (A & E),
(Pension), Chennai.

2.The District Treasury Officer,
Madurai.

3.The Assistant Treasury Officer,
Peraiyur, Madurai District.

... Respondents/
Respondents

Prayer: Appeal filed under Clause 15 of Letters Patent against the order dated 21.08.2019 made in W.P.(MD) No.3484 of 2015 on the file of this Court.



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For Appellant : Mr.K.Appadurai
For R1 : Mr.P.Gunasekaran
For RR2 & 3 : Mr.A.Baskaran
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

This appeal is directed against an order of a learned Single Judge in W.P. (MD) No.3484 of 2015, dated 21.08.2019.

2.1 The controversy involved in this case relates to the legitimacy of the proceedings initiated by the third respondent herein for recovery of family pension given to the appellant between November, 2008 and September, 2014 owing to the demise of his wife. The appellant herein was a Police Constable and his wife was a Secondary Grade teacher in a Government School. The couple have two children and while so, the appellant's wife passed away on 25.05.2008 in a road accident. Consequent to the death of his wife, the appellant was given family pension from 26.05.2008 and he received the



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same till 30.09.2014. At the relevant time, the children born to him through the deceased wife were minors.

2.2 It appears that one of the children of the appellant had informed the Department that his father had remarried and that in terms of the Tamil Nadu Pension Rules, 1978, the minor children of the deceased first wife of the appellant alone were entitled to receive family pension. This was enquired into by the Department. That enquiry appears to have disclosed that the appellant had remarried in November, 2008, to be precise on 06.11.2008. Promptly recovery was ordered, which came to be challenged before the learned Single Judge and very appropriately, the learned Single Judge dismissed the same. This is now in appeal.

3. Heard both sides.

4. The learned counsel for the appellant submitted that contrary to the statement of the Government that the appellant had married in November, 2008, he had actually got remarried only in November, 2009. This implies,



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the appellant is entitled to receive family pension till November, 2009.

Secondly, even going by the contention of the Government even if the appellant was not considered as entitled to receive family pension for the period it states, then it ought to go his minor children. Today, the minor children have attained majority. Indeed, one of the daughters of the appellant was even married today. He submitted that the accident in which the appellant lost his first wife, the appellant himself lost his leg and in spite of his severe handicap, he conducted the marriage of his daughter and hence, this Court may consider granting the amount recovered from the appellant to repay the same as representing the interest of his children.

5. The learned Additional Government Pleader submitted that the Government has since recovered the entire sum amounting to Rs.9,47,255/-. He submitted that nothing survives for consideration any longer.

6. So far as the contention of the appellant that he had remarried only in November, 2009 and not in November, 2008 is considered, no evidence is circulated before this Court. He may now approach the Department with a



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fresh representation and establish to the satisfaction of the authorities that he indeed had married only in November, 2009. This Court does not consider that the appellant might even be entitled to second chance since this is something which he ought to have impressed upon the authorities even at the first instance. However, given the health condition of the appellant, this Court only deems it to give him one opportunity to establish his date of marriage one more time.

7. The learned counsel for the appellant submitted that the appellant is willing to accept the decision of the authorities on a representation which he now be permitted to move before the authorities for establishing the date of his second marriage as final. The said statement is recorded.

8. Turning to the second part of the contention of the appellant's counsel that the entire amount recovered from the appellant should be paid to his children, since they, at the relevant time, were entitled to receive the same is concerned, it is now for the children to apply to the Department and get the same.



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9. This appeal is accordingly disposed of with the following directions:

- (a) The appellant may approach the Government with a fresh representation *vis-a-vis* the date of his second marriage, if he is so desirous, with all material particulars and evidence, within a period of eight weeks from the date on which this judgment is hosted in the official website; and
- (b) The Department is required to consider the claim of the children of the appellant for family pension as per rules, as and when they move the Department for the same.

As regards the other aspects, the order of the learned Single Judge shall stand confirmed. No costs. Consequently, connected miscellaneous petition is closed.

(N.S.S., J.) (P.V.M., J.)
01 .07.2024

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

ABR



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To

- 1.The District Treasury Officer,
Madurai.
- 2.The Assistant Treasury Officer,
Peraiyur, Madurai District.



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N. SESHASAYEE, J.
and
P.VADAMALAI, J.

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