



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2025

CORAM

THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

WP No. 4886 of 2025

and

WMP.No.5414 of 2025

1. Union of India
represented by Defence Secretary,
Govt of India,
Ministry Defence (Pensions & Grievances)
No 435 “A” Wing,
Sena Bhawan, New Delhi 110 011

2.The Principal Controller Of Defence
Accounts (Pensions),
Allahabad - 211014 (U.P)

3.Madras Regiment
Abhilekh Karyalaya
Office I/c
Records The Madras Regiment
Pin 600 458 C/o 56 APO

4.Senior Records Officer For O/C Records
Defence Security Corps Records
Pin 9901277 C/o 56 APO



Petitioner(s)

Vs

WEB COPY

1. TAMILARASI

W/o Late Mr. M. Arputham, Ex Sepoy No 2554088

No 15/3 Adi Dravidar Street, Chinnathambipalaya P.O

T. Pudupalayam (via)

Tiruchengodu Taluk Namakkal District 637 209

2. Jalitha,

Wife of Samuel Prabakaran

No 19, Post Office Street, Kamaraj Nagar, Avadi, Chennai

3. Vanitha Wife of Sundaravadivelan

No 48/101A/1 Kamakshi Nagar, Chinnathirupathi PO

Salem – 636 008

4. Santhoshkumari wife of Dinakaran

No 6A Kamaraj Street, Ambedkhar Nagar, Pattabirao,

Chennai – 600 072.

5. A Backiaraj,

Son of Late Mr. M. Arputham

No 15/3 Adi Dravidar Street,

Chinnathambipalayam PO

T. Pudupalayam (Via) Tiruchengodu Taluk, Namakkal Dist.

Pin – 638 209.

6. A Babu

Son of Late M Arputham

No 15/3 Adi Dravidar Street, Chinnathambipalayam PO

T. Pudupalayam Via Tiruchengodu Taluk, Namakkal Dist

Pin- 637 209.

Respondent(s)



PRAYER

Call for the records dated 13.07.2021 passed in OA No. 66 of 2016 on the file of the Armed Forces Tribunal, Regional bench, Chennai, thereby quashing the impugned order and render justice.

For Petitioner(s): Mr.V. Balasubramanian

For Respondents: No appearance

ORDER

(Order of the Court was made by S.M.Subramaniam J.)

Under assail is the order dated 13.07.2021 in O.A.No.66 of 2016, passed by the Armed Forces Tribunal, Regional Bench, Chennai.

2. Union of India filed the present Writ Petition. The 1st respondent is the wife of Late Mr.M.Arputham, Ex Sepoy No.2554088. The respondents 2 to 6 are the children of the 1st respondent.

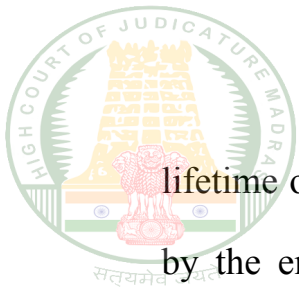
3. The husband of the 1st respondent served in the Indian Army and was later discharged from service. The 1st respondent admitted before the Armed Forces Tribunal that Late Ex-Sepoy Mr.M. Arputham married her on 30.05.1976 with the consent of his 1st wife, Mrs. Kasiyammal. The 1st wife of the Late Ex-Sepoy, Late Mrs.Kasiammal died issueless on 05.09.1989. Since the 1st wife predeceased the Late Ex-Sepoy, the 2nd wife/1st respondent submitted an application seeking family pension after the death of her husband Late Mr.Arputham. The Writ Petitioner rejected the pension application on the



ground that the employee contracted marriage with the 1st respondent during the lifetime of the 1st wife, Mrs.Kasiammal. The marriage between the Late Ex-Sepoy and the 1st respondent was solemnized even as per the 1st respondent on 30.05.1976 and admittedly, the 1st wife of Ex-Sepoy died on 05.09.1989 after 13 years from date of solemnization of marriage between the Late Ex-Sepoy and the 1st respondent.

4. The Original Application was filed mainly on the ground that after the death of the 1st wife, the 1st respondent lived with the Late Ex-Sepoy till his death and further, the Late Ex-Sepoy nominated the 1st respondent and therefore, she is eligible for family pension. The Tribunal considered this contention and, relying on a judgment of the Hon'ble Supreme Court of India, held that long cohabitation could be construed as a valid marriage, and granted the relief of pension. The Tribunal further relied on the judgement of the Constitutional Bench in the Hon'ble Supreme Court of India in the case of ***D.S.Nakara and Others Vs. Union of India***¹. However, the judgment relied on by the Armed Forces Tribunal regarding long cohabitation as a valid marriage may not apply in service matters. As far as the public servants are concerned, pension regulations, conduct rules, and other service rules govern. When an employee contracts a marriage with another person during the lifetime of their spouse, it amounts to misconduct, and plural marriages are prohibited under the Rules. Since it is established that the second marriage was solemnized during the

¹ 1983 1 SCC 305



lifetime of the 1st wife, the marriage is null and void, and the nomination made by the employee is invalid under the relevant service regulations. The Civil consequences of the said judgment relied on by the Tribunal may not have application with reference to the service clauses, which is applicable. The relationship between the employer and employee is contractual in nature, and service regulations, including the pension regulations are binding on the parties. Army Regulation 333 specifically prohibits plural marriages. It clearly stipulates that second marriage during the lifetime of the 1st wife is prohibited and amounts to misconduct.

5. The learned Standing Counsel though states that the Late Ex-Sepoy was punished and discharged from service, no record has been produced before the Armed Forces Tribunal or this Court. May that as it be, the admitted facts reveal that the marriage between the Late Ex-Sepoy and the 1st respondent was solemnized in the year 1976, during the lifetime of the 1st wife, who died in 1989, 13 years after the marriage. That being so, the 1st respondent is not eligible to claim family pension under the Service Regulations. However, in respect of the legal principles settled by the Hon'ble Supreme Court of India regarding long cohabitation and the validity of marriage, civil consequences will follow.

6. Therefore, this Court has not expressed any opinion with reference to their rights. As far as the family pension is concerned, which was rejected by



the Writ Petitioner, was based on the Pension Regulations applicable to the Indian Army. Thus, the order passed by the Armed Forces Tribunal is infirm and not in consonance with the Service Rules applicable.

7. Accordingly, the order dated 13.07.2021 in O.A.No.66 of 2016, passed by the Armed Forces Tribunal, Regional Bench, Chennai is set aside and the Writ Petition stands allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(S.M.SUBRAMANIAM J.)(K.RAJASEKAR J.)

25-03-2025

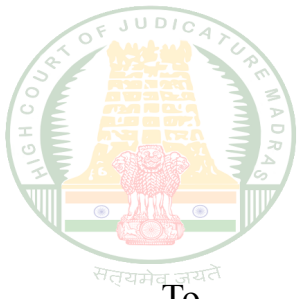
GD

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To
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