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IN THE HIGH COURT OF JUDICATURE AT MADRAS

01.04.2025

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P. No.16938of 2019

N. SUMATHI

W/o. Late K. Marudhamuthu

Middle Street,

MalliyaKarai Post,

Athur Taluk,

Salem District.

...

Petitioner

Vs.

THE PRINCIPAL ACCOUNTANT GENERAL,

361, Anna Salai,

Teynampet,

Chennai - 600 018.

...

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a WRIT OF CERTIORARIFIED MANDAMUS or any other appropriate writ, order or direction in the nature of the writ call for the entire records relating to impugned proceedings in No.P09/3/10919649/ ADK dated 29.11.2018 on the file of therespondent and quash the same consequently direct the respondent to sanction family pension from the date of death of the petitioner's husband within a stipulated period of time as fixed by this Hon'ble Court.

For Petitioner : Mr.R.Ezhilaran



For Respondents : Ms. HemaMuralikrisihanan

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ORDER

The writ petition has been filed to call for the records relating to the impugned proceedings dated 29.11.2018 in No.P09/3/10919649/ ADK on the file of the respondent and quash the same and consequently direct the respondents to sanction family function from the date of death of her husband within a stipulated period of time as fixed by this Court.

2.Heard, Mr.R.Ezhilaran, learned counsel for the petitioner, Ms. Hema Muralikrisihanan, learned counsel for the respondent and perused the materials available on record.

3. The petitioner's husband, Maruthamuthu, worked as an office assistant in the government high school at Malliyakarai. He retired on 30.9.1997, and thereafter he was receiving pension. On 15.1.2015, he died due to ill health. Subsequently, the petitioner applied for a family pension, and the same was rejected on the ground that her marriage with Maruthamuthu cannot be considered as a legal marriage. Maruthamuthu was originally married to Meena in the year 1965, and his marriage with Meena was dissolved through alleged customary



practice, and thereafter, on 16.6.1987, Maruthamuthu married the petitioner for the second time. Meenal died on 22.3.1999.

4. The learned counsel for the petitioner submitted that Maruthamuth had filed a divorce petition in HMOP.10 of 1998 and that was allowed on 21.8.1998. Even though the marriage of Maruthamuthu with the petitioner was not valid in 1965, the petitioner became the illegally wedded wife of Maruthamuthu after Meena died on 22.3.1999. So it is claimed by the petitioner that she should be construed as the legally wedded wife of Maruthamuthu for the purpose of granting family pension. The petitioner did not deny the fact that she married Maruthamuthu when his marriage with one Meenal was in subsistence in the year 1987. The petitioner claims that her marriage with Maruthamuthu will become valid because the first wife, Meenal, on 22.3.1999, or her divorce petition was allowed on 21.8.1998.

5. It is further submitted that the petitioner, with Maruthamuthu and Meenal, had dissolved their marriage according to their customary practice even before her marriage in the year 1987. So all these facts now pleaded by the petitioner are all factual aspects that can be appropriately dealt before the civil court during a full-fledged trial. Unless the petitioner files a civil suit and gets her status as the wife of the deceased Maruthamuth declared, it is not possible for the



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respondent to sanction a family pension as claimed by her. So the petitioner is at liberty to plead presumption of marriage with Maruthamuthu subsequent to the death of Meenal, or the decree for dissolution of marriage passed by the court had claimed that she was the illegally wedded wife of the deceased Maruthamuthu, at least after the said dates.

6. Without getting a decree for declaration of her status, the petitioner cannot seek a straightaway direction against the respondent to grant her the family pension by considering her as the legally wedded wife of the deceased Maruthamuthu.

With these observations, this writ petition is **disposed**. No costs. Consequently, connected miscellaneous petitions, if any, are also closed.

01.04.2025

Index : Yes
Internet : Yes/No
Speaking/Non- Speaking
Neutral: Yes/No
jrs



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R.N.MANJULA, J.
jrs

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