



W.P.(MD).No.2080 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 01.12.2025

ORDER PRONOUNCED ON : 03.12.2025

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD).No.2080 of 2022

Mrs.S.Jeni Ammal

....Petitioner

Vs

The Principal Chief Security Commissioner
Railway Protection Force
Moore Market Complex
Chennai 600 003

....Respondent

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus challenging the impugned order passed by the respondent vide No.X/P/C/500/Sr/2021 dated 07.12.2021 and quash the same as illegal and consequentially for a direction, directing the respondent to consider my representation dated 10.01.2022 with regard to grant of Family Pension with effect from 25.10.2007 without any further delay within the time frame fixed by this Court.

For Petitioner : Mr.G.Anto Prince

For Respondents : Mr.K.Govindarajan
Deputy Solicitor General of India



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ORDER

The present writ petition has been filed by the second wife of a railway employee challenging the order passed by the respondent herein wherein her request for grant of family pension has been rejected.

(A).Factual Background:

2.One Sri.S.Ramaiah was working in the railways had attained superannuation on 31.08.1985. He entered into a second marriage with the writ petitioner on 06.01.1975. His first wife namely Mrs.R.Anbu had passed away on 21.04.1996. The employee had died on 25.10.2007. Seeking family pension, the writ petitioner had approached the railways. Under the impugned order dated 07.12.2021, the request of the petitioner has been rejected on the sole ground that when the writ petitioner got married Sri.S.Ramaiah, his first wife was still alive. Challenging the said order, the present writ petition has been filed. These facts are not in dispute.

(B).Submissions of the learned counsels appearing on either side:

3.The learned counsel for the writ petitioner had contended that when the petitioner got married to the employee, she was not aware of the fact that his first wife was still alive. The petitioner is an innocent lady who has been duped by the railway employee. He relied upon Rule 75(7)(i)(a) of Railway Services (Pension) Amendment Rules 2016 and contended that where the



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family pension is payable to more widows than one, the family pension shall be paid to the widows in equal shares. He further pointed out that on the death of a widow, her share of the family pension, shall become payable to her eligible child. Therefore, according to him, even pension Rules provide for payment of pension to the second wife.

4.The learned counsel for the writ petitioner had relied upon the decisions of the Hon'ble Supreme Court reported in **2000(1) MLJ 135 (SC)** (*Rameswari Devi Vs. State of Bihar and others*); **2015 (14) SCC 511** (*Raj Kumari and others Vs. Krishna and others*); the decision of the High Court of Bombay, Aurangabad Bench reported in **2016 (3) MhLj 836** (*Draupada and others Vs. Indubai and others*); **2017 (6) MhLj 816** (*Indubai Jaydeo Pawar and others Vs. Draupada and others*) and **2019 (3) MhLj 921** (*Kamalbai and others Vs. The State of Maharashtra and others*). He also relied upon the order passed in **W.P.No.111260 of 2017** (*Smt.Shanta Sadani Vs. General Manager, South Western Railway and others*) by the High Court of Karnataka Dharwad Bench and the order passed in **RSA.No.100321 of 2020** (*Smt.Davalbi Vs. Smt.Shamshad Begum and others*) by the High Court of Karnataka, Dharwad Bench. He also relied upon a decision made in **W.P.No. 15979 of 2022** (*Pushpa Vs. Y.Jansi Rani and others*) by the High Court of Karnataka at Bengaluru. He further relied upon a decision of this Court in **W.P.No.27317 of 2016** (*S.Kumarammal Vs. The Accountant General,*



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Chennai-18) in support of his contention.

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5.Per contra, the learned Deputy Solicitor General of India had relied upon the decisions of the Hon'ble Supreme Court reported in **2000(1) MLJ 135 (SC) (Rameswari Devi Vs. State of Bihar and others)**; **2015 (14) SCC 511 (Raj Kumari and others Vs.Krishna and others)**. He had also relied upon the Full Bench decision of the High Court of Bombay (Aurangabad Bench) in **W.P.Nos.9933, 11256 and 12308 of 2016 (Kamalbai and others Vs. The State of Maharashtra and others)** and the decision of the learned Single Judge of this Court in **W.P.No.32556 of 2014 (Santhi Vs. The Secretary to Government and others)** dated 15.07.2022 and contended that the marriage of the writ petitioner with the deceased S.Ramaiah is a void marriage and therefore, the petitioner can never be considered to be the widow of Sri.S.Ramaiah. He further contended that the marriage of the petitioner with the said Sri.S.Ramaiah is not permissible even under the Personal Law applicable to the writ petitioner. In such circumstances, reliance cannot be made on Rule 75(7)(i)(a) of Railway Services (Pension) Amendment Rules 2016. Hence, the prayed for dismissal of the writ petition.

6.I have considered the submissions made on either side and perused the material records.



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(C).Discussion:

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7. Admittedly, the writ petitioner got married to a railway employee while his first marriage was subsisting. The petitioner placed heavy reliance on Rule 75(7)(i)(a) of Railway Services (Pension) Amendment Rules 2016 wherein there is a provision of sharing of pensionary benefits between the widows.

8. It is to be noted that a similar provision is also available in Tamil Nadu Pension Rules 1978. While considering the said provision, a Division Bench of this Court in a judgment reported in **(2018) 5 MLJ 385 (R.Rajathi Vs. Superintendent Engineer TANGEDCO Ltd., Nagapattinam and another)** in paragraph No.43 has held as follows:

“43. We are, therefore, constrained to conclude that the judgments which conclude that a second wife would be entitled to family pension, irrespective of her marriage being void, under the provisions of their relevant Personal Law's applicable to the parties do not reflect the correct position of law and therefore will stand overruled. The applicability of Sub Rule 7(a)(i) is confined only to cases where the second marriage is valid under the Personal Law applicable to the parties, only in such cases, widows of such marriages would be entitled to family pension.”.

9. Rule 21 of Central Civil Service (Conduct) Rules, 1964 prohibits a Government servant from entering into a marriage with a person having a spouse living. In case, if a Government servant wishes to enter into a second



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marriage, he should seek prior permission of the Government and such a permission can be granted only if the Personal Law applicable to the Government servant and other parties to the marriage permit such a marriage while the first marriage is subsisting. Admittedly, in the present case, no such permission has been sought for by the deceased employee prior to entering into a second marriage while the first marriage was subsisting.

10.The writ petitioner is said to have married Sri.S.Ramaiah on 06.01.1975 in Jehovah Salvation Church and the extract from the Marriage Register reveals that the parties have got married under the Indian Christian Marriage Act, 1872. Section 60 of the Indian Marriage Act 1872 points out that the marriage certificate can be issued only neither of the persons intending to be married shall have a wife or husband still living. Therefore, it is clear that the Personal Law that is applicable to the writ petitioner also does not permit the second marriage while the first marriage is subsisting.

11.Admittedly, when the first marriage of Sri.S.Ramaiah with Mrs.Anbu was subsisting, the petitioner has got married the said Ramaiah as a second wife. The marriage is void even under the Personal Law. The Conduct Rules that are applicable to Sri.S.Ramaiah also do not provide for contracting a second marriage while the first marriage is subsisting. In such circumstances, the petitioner can never be considered to be a legally wedded wife of the deceased Sri.S.Ramaiah. Therefore, she cannot be considered to



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be a widow of S.Ramaiah. Only in cases where the Personal Law permits the second marriage while the first marriage is subsisting and the widows survive the husband, the question of sharing the family pension would arise. In the present case, neither the personal law applicable to the writ petitioner nor the Conduct Rules applicable to the deceased employee, permit contracting a second marriage while the first marriage is subsisting. Therefore, the reliance placed by the writ petitioner on Rule 75(7)(i)(a) of Railway Services (Pension) Amendment Rules 2016 is not applicable to the facts of the present case.

(D).Conclusion:

12.In view of the above said deliberations, I do not find any illegality or infirmity in the order passed by the respondent rejecting the request of the writ petitioner for family pension. There are no merits in the writ petition and the same stands dismissed. No costs.

03.12.2025

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

The Section Officer
V.R.Section
Madurai Bench of Madras High Court
Madurai



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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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