



W.P.(MD)No.4907 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.4907 of 2025
and WMP(MD)No.3565 of 2025

P.Asokar

... Petitioner

Vs.

1. The Director,
O/o. the Director,
Rural Development and Panchayat Raj Department,
Saidapet, Chennai 600 015.

2.The Assistant Director,
O/o the Assistant Director,
Panchayat Union(Pension),
Local Fund Audit Department,
Professor K.Anbalagan Maligai,
4th Floor, Nanthanam,
Chennai – 35.

3.The Commissioner,
O/o. the Commissioner,
Usilampatti Panchayat Union,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Order in Moo.Mu.No.E-152111/Na.O.Sa(4)/2024 dated 04.07.2024 on the file of the respondent no. 2 and quash the same as illegal, and



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consequently for a direction directing the respondent no. 1 and 2 to include the petitioner's Wife's name Mrs. Maliga Devi in the family pension.

For Petitioner : Mr.G.Karthik

For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

This Writ Petition has been filed to quash the impugned order dated 04.07.2024 on the file of the second respondent and for a consequential direction to the respondents 1 and 2 to include the petitioner's wife's name in the family pension.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. The petitioner is a retired Revenue Assistant in the third respondent Panchayat Union and after his retirement, he is getting pension. The petitioner's first wife namely, Jeyalakshmi passed away due to her old age ailments on 06.09.2017. Since the petitioner was living alone with no caregiver, he married one Mallika Devi D/o Thandapani. In fact, at that time, though she was married another person, she was living separately. Without verifying the fact that

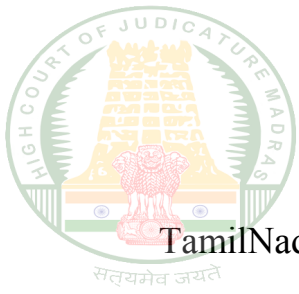


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whether she got divorce from her husband or not, the petitioner married the said

Mallika Devi. Thereafter, he sent a proposal to the second respondent to include her name in the family pension. The request of the petitioner was rejected on the ground that she was not legally separated from her husband. Thereafter, she filed a divorce petition in H.M.O.P.No.61 of 2019 and by order dated 18.03.2022, divorce was granted by the Principal District Sessions Court, Dindigul and the marriage of the petitioner with the said Mallika Devi was registered and certificate of registration of marriage was issued by the concerned authority on 29.04.2022. Thereafter, the petitioner made a representation again to the second respondent to include her name as legally wedded wife for his family pension. The same was rejected through the impugned order dated 04.07.2024 stating the reason that the petitioner married the said Mallika Devi even before she obtained a decree of divorce from her husband. Aggrieved by the rejection order, the petitioner filed the present writ petition.

4. The learned counsel for the petitioner would submit that the rejection order is highly arbitrary since the said Mallika Devi was divorced from her husband and their marriage was legally certified before the Registrar. As per the



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TamilNadu Pension Rules, she is the legal heir of the petitioner and she is

eligible to be included in the family pension. He sought to set aside the impugned order by allowing the writ petition.

5. The learned Special Government Pleader appearing for the respondents, on instructions, submits that the request of the petitioner is rejected by following the relevant rules and accordingly, interference is not warranted.

6. Having heard the submissions of the respective counsels, it appears that there is no dispute with regard to the admitted facts. The petitioner's wife died on 06.09.2017. Thereafter he married one Mallika Devi but by that time, she did not get divorce from her husband. Due to that reason, the request of the petitioner to include her name as nominee for family pension was rejected. Subsequently, she got a decree of divorce from the competent court of law and the marriage of the petitioner and Mallika Devi was registered on 29.04.2022. As seen from the facts of the case, there is no wrong with the decision taken by the respondents rejecting the request of the petitioner. But, if the situation is visualized in different angle, it is an admitted fact that the petitioner is aged 76 years, a retired employee, who lost his wife. He has to stay alone for the entire



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life without any support. Normally, in the present days, the children could not

stay with the aged parents because of their occupation. To take care of the petitioner, some assistance is required at his old age. Under those circumstances, it appears that the petitioner married the said Mallika Devi. Though she did not get divorce from her earlier husband at the time of marriage with the petitioner, now it is clear that she got a decree of divorce from the competent court of law and the marriage of the petitioner and the said Mallika Devi is registered with the concerned authorities. As on date, both of them are husband and wife as per law. To that extent, there is no dispute on facts or legally also. The petitioner has already crossed 76 years of age and if anything happened to the petitioner, the said Mallika Devi, who is the second wife of the petitioner, has to suffer her entire life for survival without any financial support. Under these circumstances, if the respondents, without following the technicalities, consider the issue involved in the present case with human outlook, it will be helpful to the old couple.

7. In this factual position, in the considered opinion of this Court, it is reasonable and desirable to direct the second respondent to consider the request of the petitioner to include the name of his second wife i.e Mallika Devi as his



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nominee for family pension on humanitarian grounds. To enable the second respondent to consider the request of the petitioner, the matter is remanded back to the second respondent by setting aside the impugned order.

8. For the aforesaid reasons, this writ petition is disposed of with the following directions:

- i) The impugned order is set aside;
- ii) The matter is remanded back to the second respondent for fresh consideration on humanitarian grounds and to pass orders within a period of four weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

Consequently, connected miscellaneous petition is closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
CM



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WEB **To:** PY

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2.The Assistant Director,
O/o the Assitant Director,
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BATTU DEVANAND, J.

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