

W.P.(MD)No.10222 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.03.2025

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THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD) No.10222 of 2019

P.Mahalakshmi

... Petitioner

vs.

1.The Chief Secretary to Government of Tamil Nadu,
School Education Department,
St George Fort,
Chennai -9.

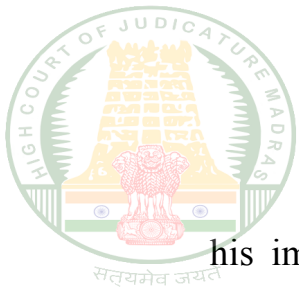
2.The Director of School Education,
College Road,
Chennai -6.

3.The District Educational Officer,
Cheranmahadevi,
Tirunelveli District.

4.The Headmaster,
Government Higher Secondary School,
Panagudi,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records from the 3rd respondent /District Educational Officer relating to



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his impugned order in Na.ka.No.18137/A1-(2)92, dated 12.03.2011 to Quash the same and consequently direct the respondents 3 and 4 to forward the petitioner's family Pension proposal within the time to be framed by this Court to the Accountant General(A&E), Chennai exclusively based on the right of the petitioner for family pension as per G.O.Ms.No.900, Finance and Pension Department dated 04.12.1995, dehors the community certificate proceedings.

For Petitioner :Mr.S.Loganathan

For Respondents :Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

Under assail is the order dated 12.03.2011 passed by the third respondent/the District Educational Officer, Cheranmahadevi, Tirunelveli District, rejecting the request made by the petitioner with regard to provide the family pension and other benefits to the petitioner.

2.It is the case of the petitioner that her husband, Paramasivan, had served as Office Assistant in Government Higher Secondary School, Panagudi, Tirunelveli District. He has put up 19 years of service without any blemish. After quashing the charge against him saying that he has



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given a wrong community certificate, he was reinstated into service.

After reinstatement into service, he died while he was in service on 02.12.2009. Hence, the petitioner is entitled for family pension under the amended Tamil Nadu Pension Rule 72 and 74 as amended by G.O.Ms.No.900, Finance and Pension Department, dated 04.12.1995.

3.While so, while he was in service, a Committee was constituted to verify his community certificate and on that account, a departmental disciplinary proceeding was initiated. As against the constitution of the community certificate verification Committee, the petitioner has filed W.P.(MD) No.5477 of 2011 before this Court and this Court vide order dated 17.10.2016 had allowed the writ petition. The third respondent/the District Educational Officer, who has got the statutory duty to forward the petitioner's family pension by regularizing the brake in service, has to regularize it and the proposal shall be forwarded by him, but without applying his mind, the order impugned came to be passed on 12.03.2011 saying that her husband's brake in service was not regularized and therefore, the proposal could not be forwarded to the Accountant General. Hence, this Writ Petition.



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4.The learned counsel appearing for the petitioner would submit that as against the constitution of the community certificate verification Committee, the petitioner has filed W.P.(MD) No.5477 of 2011 before this Court and this Court vide order dated 17.10.2016 had allowed the writ petition remanding the matter back to the State Level Committee concerned to pass appropriate orders and the same is still pending till date. He would submit that the petitioner's husband died while he was in service and the charges levelled against him became abated and the service rendered by the petitioner's husband has to be regularized. Therefore, the petitioner is entitled to for the family pension under the amended Tamil Nadu Pension Rule 72 and 74 as amended by G.O.Ms.No.900, Finance and Pension Department, dated 04.12.1995. He would submit that challenging the order impugned, another writ petition in W.P.(MD) No.5478 of 2011 has been filed and the same has also been dismissed by this Court, vide order dated 12.12.2017 itself.

5.*Per contra*, the learned Additional Government Pleader appearing for the respondents would submit that the petitioner has



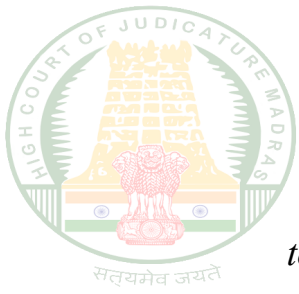
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already challenged the order impugned in W.P.(MD) No.5478 of 2011 and this Court considered the said writ petition on 12.12.2017 itself and therefore, he would submit that the present writ petition is not maintainable. He would submit that the petitioner could wait till the outcome of the State Level Committee concerned, who is scrutinizing the community certificate of the petitioner's husband produced while he was in service.

6.This Court had considered the rival submissions made on either side and perused the available records carefully.

7.It is not in dispute that the writ petitioner has chosen to challenge the constitution of the community certificate verification Committee in W.P.(MD) No.5477 of 2011 and this Court vide order dated 17.10.2016 has observed in paragraph No.8 as hereunder:-

“8.Accordingly, the Writ Petition is partly allowed. The order of the second respondent, dated 11.03.2011, stands set aside and the matter is remanded back to the State Level Committee concerned to pass appropriate orders strictly in



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terms of the decision cited in Kumari Madhuri Patil's case.

Such exercise shall be carried out within a period of eight weeks from the date of receipt of a copy of this order and the decision taken shall be communicated to the petitioner, forthwith. No costs. Consequently, the connected miscellaneous petition is closed.”

8.It is an admitted fact that the petitioner has filed another writ petition in W.P.(MD) No.5478 of 2011, challenging the impugned order dated 12.03.2011, which is also the subject matter of this Writ Petition. Both side fairly bring to the notice of this Court that the aforesaid writ petition, namely W.P.(MD) No.5478 of 2011 came to be dismissed by this Court, vide order dated 12.12.2017 itself.

9.In view of the above circumstances, the order impugned dated 12.03.2011 stating that the petitioner's husband's service was not regularized and therefore, the proposal could not be forwarded to the Accountant General, appears to be correct. There is no reason to interfere with the order impugned and there is no merit in this writ petition.



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WEB COPY 10.In the light of the above, the Writ Petition is liable to be dismissed and is accordingly, dismissed. No costs.

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

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To

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M.JOTHIRAMAN, J.

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