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W.P(MD)NO.12038 of 2021

**BEFORE THE MADURAI BENCH OF MADRAS HIGH
COURT**

DATED:02.09.2025

CORAM:

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P(MD)No.12038 of 2021

Mathammal

... Petitioner

.Vs.

1.The Accountant General(A&E)
No.361, Anna Salai,
Chennai- 600 018.

2.The Block Educational Officer,
Kamuthi – 623 603,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent in Na.Ka.No.1377/AA2/2019, dated 7.1.2021 and the consequential proceedings of the first respondent in No.P17/1/11724211/ADK, dated 13.1.2021 and quash the same and to pay the family pension to the Petitioner as per Rule 49(7)(a)(i) of the Tamil Nadu Pension Rules.

For Petitioner

: Mr.A.Srinivasan



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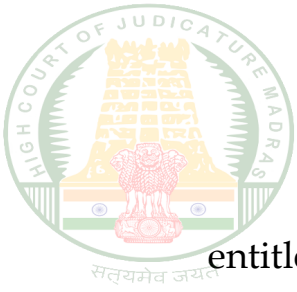
For Respondent-1 : Mrs.S.Mahalakshmi
Standing Counsel

For Respondent-2 : Mr.S.Shaji Bino,
Special Govt.Pleader

ORDER

This Writ Petition has been filed challenging the impugned orders, dated 7.1.2021 passed by the second respondent and the impugned order, dated 13.1.2021 passed by the first respondent rejecting the Petitioner's request for family pension in respect of deceased Gopalakrishnan, who was working as Headmaster at Mustakurichi Panchayat Union Middle School and had subsequently retired from service on 13.12.1983, on the ground that the Petitioner is not the legally wedded wife of the deceased Gopalakrishnan.

2.Admittedly, the Petitioner had married Gopalakrishnan when the first wife of Gopalakrishnan namely, Radharukmani was alive. The Petitioner claims that by customary practice, Gopalakrishnan is allowed to have more than one wife. The Petitioner also contends that the first wife of Gopalakrishnan namerly, Radharukmani has also given her consent for the second marriage. According to the Petitioner, she is the only person



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entitled to receive the retirement benefits of her husband Late. Gopalakrishnan, as per Rule 49(7)(a)(i) of the Tamil Nadu Pension Rules.

3.A counter has also been filed by the respondents denying the contentions of the Petitioner. According to them, only in accordance with law, the Petitioner been the second wife of the deceased Gopalakrishnan and having married Gopalakrishnan when his first wife was alive, is not entitled to receive the family pension. Therefore, according to the respondents, they have rightly rejected the Petitioner's request for family pension under the impugned orders.

4.Admittedly, the Petitioner is the second wife of deceased Gopalakrishnan, who was working as Headmaster at Mustakurichi Panchayat Union Middle School and subsequently retired from service on 13.12.1983, having married Gopalakrishnan when his first wife Radharukmani was very much alive. The law is now well settled by various decisions rendered by this Court, which includes the Division Bench judgments rendered by this Court in:

a) R.Rajathi .vs. The Superintendent Engineer and another in W.A.NO.977 of 2017, dated 5.6.2018;



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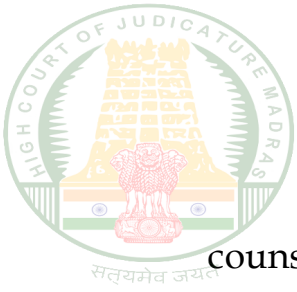
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b)Vijayalakshmi .vs. The Principal Accountant General(A&E), Tamil Nadu and another reported in 2022-I-Writ L.R.360.

As per the above decision, a person who has married subsequent to the coming into force of the Hindu Marriage Act, 1955, will have to contract a valid marriage to enable her to receive family pension in respect of a retired/deceased employee.

5.In the case on hand, the Petitioner has not contracted a valid marriage with Gopalakrishnan and she has married him when his first marriage with Radharukamni was subsisting.

6.The learned counsel for the Petitioner drew the attention of this Court to the decision dated 26.7.2024 rendered by the Honourable Supreme Court in *S.L.P.(C)No.2365 of 2022 in the case of Radha Devi .vs. The Chief General Manager and others* in support of his contention that since the first wife of the deceased Gopalakrishnan having given consent for the Petitioner to receive the family pension by exercising the view taken by the Honourable Supreme Court in the aforesaid decision, this Court can direct the respondents to grant family pension to the Petitioner, even though the Petitioner was the second wife of the deceased Gopalakrishnan. The decision relied upon by the learned



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counsel for the Petitioner referred to supra, is a decision rendered by the Honourable Supreme Court by exercising powers under Article 142 of the Constitution of India, which power as High Court, this Court does not have. Since the law is now well settled by various decisions of the Constitutional Courts including this Court as referred to supra, the question of permitting the Petitioner to receive the family pension when admittedly the Petitioner is the second wife of deceased Gopalakrishnan and she has married Gopalakrishnan when his first wife was very much alive, does not arise. This Court does not find any merit in this Writ Petition.

7. Accordingly, the Writ Petition is dismissed. No costs.

02.09.2025

NCS : Yes/No
Index : Yes / No
Internet : Yes / No

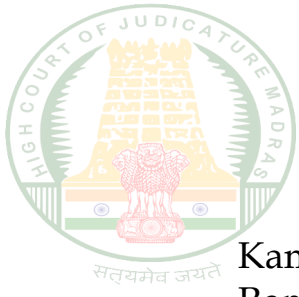
vsn

To

1.The Accountant General(A&E)
No.361, Anna Salai,
Chennai- 600 018.

2.The Block Educational Officer,

5/7



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Kamuthi – 623 603,
Ramanathapuram District.

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ABDUL QUDDHOSE.,J.

vsn

ORDER MADE IN

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