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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12973/2022**
V. VALIAMMAL

.....Petitioner

Through: Mr. Dikshant Khanna, Advocate.

versus

**MUNICIPAL CORPORATION OF DELHI, THROUGH ITS
COMMISSIONER & ANR.**

.....Respondent

Through: Ms. Manika Tripathy, ASC for MCD.
Mr. Sudarshan Rajan, Ms. Ria Setiya
and Mr. Hitain Bajaj, Advocates for
R-2.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
23.05.2025

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CM APPL. 32050/2025 (for early hearing)

1. The petitioner has filed this application seeking early hearing of the writ petition.
2. For the reasons stated, and with the consent of learned counsel for the parties, the application is allowed, and the writ petition is taken on Board.

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3. The petitioner has filed this petition under Article 226 of the Constitution, seeking release of the family pension payable by respondent No. 1 – Municipal Corporation of India [“MCD”], on account of the service of her late husband Mr. Veera Muthu.
4. The petitioner claims to have been married to Late Mr. Veera Muthu



on 22.05.1966, but it is stated that they were estranged since the year 2006. According to the petitioner, she has two sons with her late husband. The petitioner instituted proceedings against her husband under Section 125 of Code of Criminal Procedure, 1973.

5. After the death of late Mr. Veera Muthu on 23.05.2019, the petitioner claims family pension, as his legally wedded wife.

6. It is stated in the writ petition, however, that the petitioner is aware that respondent No. 2 has been named as the nominee of late Mr. Veera Muthu in his service records. The petitioner has stated that she also filed a suit in the year 2019 for the same relief [Civil Suit No. 3025/2019]. Although Mr. Dikshant Khanna, learned counsel for the petitioner, states that the suit has been withdrawn, according to Mr. Sudarshan Rajan, learned counsel for respondent No. 2, the suit was in fact dismissed in default by order dated 20.10.2022.

7. Be that as it may, the question arises as to whether the disputes sought to be agitated by the petitioner, can at all be determined in proceedings under Article 226 of the Constitution.

8. In this context, it may be noted that MCD has filed its affidavit, in which it is categorically stated that the name of respondent No. 2 is entered in the service records of late Mr. Veera Muthu, as his wife. The service records also reflect the name of two sons, born in 1990 and 1994, who are not the sons of the petitioner herein. MCD has further stated that, after the demise of late Mr. Veera Muthu, pension was disbursed to his nominee, i.e. respondent No. 2. However, the disbursement of pension was stopped after the present controversy came to its knowledge.

9. Respondent No. 2 has also filed a counter affidavit, in which it is



stated that her name was entered in the service records as the legally wedded wife of late Mr. Veera Muthu.

10. Having regard to the controversy, I am of the view that the writ remedy is not suitable for adjudication of the petitioner's claim. Clearly, there are disputed questions of fact, which affect the rights of respondent No. 2 also. These questions can properly be adjudicated only upon evidence, whereas the procedure of the writ Court is generally summary. In fact, the petitioner herself had earlier instituted civil proceedings for the same relief. On a consideration of the facts of this case, I am of the view that the petitioner has to be relegated to ordinary remedies available to her in law.

11. The petition is, therefore, dismissed, with liberty to the petitioner to take appropriate civil remedies as available in law.

PRATEEK JALAN, J

MAY 23, 2025

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