



WEB COPY



W.P.No.21041 of

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2026

CORAM

**THE HONOURABLE DR. JUSTICE ANITA SUMANTH
and**

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

**W.P.No.21041 of 2014
and M.P.No.1 of 2014**

1. The Senior Accounts Officer,
Pay and Accounts Division (BSF),
Pension III, Section, Pushpa Bhavan,
Mandangir, New Delhi – 110 062.

2. The Commandant, DC/DDO, Hdr 181 Btlh,
Panisagar, Tirupura North,
Tripura – 799 260.

... Petitioner(s)

Vs.

1. Smt.Maddammal

2. Mrs.Nithya

... Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Certiorari, calling for the records relating to the order dated 22.09.2010 passed by the High Court Legal Services Committee, Chennai, in W.P.No.21980 of 2009 and quash the same insofar as Clause (iii) alone.

For Petitioner(s) : M/s.K.Subbu Ranga Bharathi

For R1 : Mr.Manoj Kumar

For R2 : No appearance



ORDER

(Order of the Court was made by **MUMMINENI SUDHEER KUMAR, J.**)

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This writ petition has been filed seeking a writ of certiorari, calling for the records relating to the order dated 22.09.2010 passed by the High Court Legal Services Committee, Chennai, in W.P.No.21980 of 2009 and also sought for quashing of the same insofar as Clause (iii) of the said order is concerned.

2. The brief facts that are relevant for disposal of this writ petition are as under:-

2.1. The son of the first respondent, by name Mr.M.Senthil Kumar, joined as 'Constable' in Border Security Force on 25.12.2000 and the first respondent herein was appointed as the next of kin in the nomination forms, as he was not married by then. It was thereafter, the said Mr.M.Senthil Kumar applied for casual leave from 02.06.2007 to 24.06.2007 and during the said period, he got married to the third respondent herein on 10.06.2007. Unfortunately, within ten days of marriage, he passed away due to 'Falciparum Malaria and Acute Renal Failure' on 20.06.2007. It was thereafter, a dispute arose with regard to the terminal and pensionary benefits



of the deceased Mr.M.Senthil Kumar between the respondents 1 and 2 herein.

However, the second respondent herein was granted family pension, being the legally wedded wife of the deceased Mr.M.Senthil Kumar, in terms of CCS (Pension) Rules, 1972. In respect of the other terminal benefits, the respondents herein were asked to obtain a Succession Certificate.

2.2. While the matter stood thus, the first respondent herein approached this court by filing W.P.No.21980 of 2009 claiming for payment of 50% of the family pension and other monetary benefits. During the pendency of the said writ petition, the matter was referred to the Lok Adalat before the High Court Legal Services Committee, Chennai. Before the Lok Adalat, the respondents 1 and 2 herein settled the matter amicably and arrived at certain terms and conditions. In terms of the same, the said writ petition was disposed of by order dated 22.09.2010. In terms of the said settlement, the respondents 1 and 2 herein agreed to receive 50% of the terminal benefits of the deceased Mr.M.Senthil Kumar and insofar as the family pension is concerned, it was agreed that the second respondent wife is entitled to receive family pension till the date she get remarried and thereafter, the first respondent Mother will be entitled to receive the family pension.



3. For better appreciation, the terms of the settlement are extracted

hereunder:-

“TERMS OF SETTLEMENT

The learned counsel for the petitioner is present. 3rd respondent present with her father and counsel.

2. This writ petition arises out of the impugned order regarding the sharing of the grant of finance of the deceased, late constable Senthil kumar. The writ petitioner and the 3rd respondent are the beneficiaries and have arrived at a settlement as under:

(i) Both the petitioners and the 3rd respondent shall share equally the financial benefits arising on the death of Senthil kumar which includes interest, if any.

(ii) The 3rd respondent, Nithya, wife of the deceased, Senthil kumar is entitled to family pension which she is receiving already.

(iii) In the event of Nithya get remarried, the petitioner will be entitled to get family pension.

Both the parties have agreed that the succession certificate O.P. filed by both the parties will also be settled on that basis in the Sub Court, Krishnagiri.

On the basis of the above settlement, the writ petition is disposed of and the O.P. is also disposed of accordingly.”



4. As seen from the said order dated 22.09.2010, the petitioners herein were arrayed as respondents 1 and 2 in the said writ petition and they were represented by their respective counsel. However, the terms of settlement were not signed by either of the petitioners herein or by their counsel. It was signed only by the respondents 1 and 2 herein and their respective counsel. It was thereafter, the petitioners herein, having unsuccessfully challenged the said order dated 22.09.2010 passed by the High Court Legal Services Committee, Chennai, viz., W.A.SR No.101323 of 2013, thereafter filed the present writ petition challenging the said order dated 22.09.2010.

3. The first respondent filed counter-affidavit and the second respondent, though entered appearance, no counter-affidavit is filed, nor there is any representation for her when the matter is taken up for consideration today.

4. M/s.K.Subbu Ranga Bharathi, learned counsel appearing for the petitioners contended that the payment of family pension is governed by Rule 54(14) of the CSS (Pension) Rules, 1972 and various circulars issued thereunder. According to him, in terms of the said Rule 54(14), though



dependent parents are also covered under the definition of 'Family', the family pension can be paid only in terms of Rule 54(6). In terms of the same, the childless widow of the deceased Government Servant is entitled to draw family pension till the date of her death or remarriage, whichever is earlier. The learned counsel appearing for the petitioners further contended that in terms of Office Memorandum dated 02.09.2011, in case the deceased Government Servant is not survived by a widow or a child, the dependant parent become directly eligible to receive family pension and in a case where the deceased Government Servant is survived by a widow or a child, the dependent parents become eligible for family pension only after the death or remarriage of the widow or death or ineligibility of the child. He also contended that in terms of the Department Office Memorandum No.38/37/08-P and PW(A) dated 02.09.2008, a childless widow, subject to dependancy criteria, is entitled to receive the family pension even after her remarriage and that in such an event, the parents of the deceased employee become entitled to family pension only after a childless widow dies or when her independent income from all other sources becomes equal to or higher than that prescribed for dependancy criterion under the Rules. Thus, it is contended that Clause (iii) of the terms of settlement arrived at before the High Court Legal Services Committee, Chennai, is contrary to Rule 54(6) and the Office Memorandums



W.P.No.21041 of

dated 02.09.2008 and 02.09.2011 and therefore, the impugned award, being contrary to the statutory rule and the subordinate legislation therein, is liable to be declared as void.

5. On the other hand, Mr.Manoj Kumar, learned counsel appearing for the first respondent contended that the respondents 1 and 2 have willingly agreed to certain terms and conditions and it is the second respondent who is otherwise entitled to receive the family pension and she has voluntarily waved her right in favour of the first respondent herein and therefore, it cannot be said that Clause (iii) of the terms of settlement is in any way in violation of the CSS (Pension) Rules, 1972 or the Office Memorandums issued thereunder.

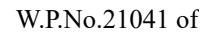
6. We have considered the submissions made on either side carefully and also perused the entire material on record.

7. The award/ order passed in the Lok Adalat is equal to a decree passed by a civil court in terms of Section 21 of the Legal Services Authorities Act, 1987. Normally, no appeal lies against such an award, being an award passed with the consent of all the parties. It is only in case of certain



peculiar circumstances, such an award can be challenged, such as, (i) fraud or misrepresentation, (ii) coercion or undue influence, (iii) absence of consent, (iv) no actual compromise between the parties, (v) lack of jurisdiction of the Lok Adalat, (vi) violation of principles of natural justice, (vii) award being patently illegal or a nullity etc.

8. Even on considering all the contentions raised in the writ petition and before us as true, none of the above circumstances exist to interfere with the impugned order. Admittedly, the petitioners herein were represented by a counsel before the High Court Legal Services Committee, Chennai, when the matter was placed before it for amicable settlement. No doubt neither of the petitioners herein signed the said terms of the settlement, as the dispute is mainly between the respondents 1 and 2 herein. The factum of the petitioners herein not signing in the terms of settlement, in our considered view, is of no consequence. The fact remains that the order dated 22.09.2010 was passed by the High Court Legal Services Committee with full knowledge of the petitioners herein and they were represented by a counsel. Therefore, it is not open for the petitioners herein to challenge the same by filing the present writ petition especially in the absence of any sustainable grounds.



Page 9 of 13



10. In terms of Clause (iii) of the settlement, the second respondent herein is entitled to receive family pension till the date of her remarriage and the same is strictly in accordance with the Rules and the Office Memorandums referred to above. However, in terms of Clause(iii), once the second respondent gets remarried, the first respondent mother is made entitled to receive the family pension. The right that is conferred upon the second respondent to receive family pension inspite of her remarriage, upto a particular period, i.e., her independent income from all other sources becomes equal or higher than the minimum pension, is the one which is agreed to be waived by the second respondent herein in favour of the first respondent herein in terms of the settlement arrived at before the High Court Legal Services Committee, Chennai, under Clause (iii) of the said terms of settlement.

11. We are unable to see any restriction or embargo on the second respondent waiving such right conferred under the Office Memorandum or the Rules in favour of the first respondent herein. That is what is done in terms of the settlement dated 22.09.2010. Absolutely, we do not see any prejudice or any violation of either the Rules or the Office Memorandums.



Admittedly, the first respondent herein is entitled to receive the family pension once the second respondent gets remarried, however, subject to the conditions noted above. When the second respondent willingly and knowingly agreed to waive such right, it is not open for the petitioners herein to come in between and contest the same. The liability of the petitioners herein to pay family pension either to the second respondent or to the first respondent cannot be avoided under any circumstances. In the light of the above, we do not see any reason to interfere with the impugned order dated 22.09.2010 passed in W.P.No.21980 of 2009 by the High Court Legal Services Committee, Chennai, and we are of the considered view that this writ petition is liable to be dismissed.

12. It is brought to our notice that the second respondent herein got remarried and is living with her husband and two children, and she has no objection for paying family pension in faovur of the first respondent. Further, it is also brought to our notice that the petitioners herein stopped paying the family pension either to the second respondent or to the first respondent from the date of passing of the impugned order.



W.P.No.21041 of

13. In the light of the above, this writ petition is dismissed and the petitioners herein are directed to release the family pension arrears in favour of the second respondent till the date of her remarriage and thereafter in favour of the first respondent herein upto date, as expeditiously as possible, at any rate within a period of eight weeks from the date of receipt of a copy of this order. The petitioners are also further directed to continue to pay family pension in favour of the first respondent every month during her lifetime. No costs. Consequently, the connected miscellaneous petition is closed.

(Dr.A.S.M.,J.) (M.S.K.,J.)
28.01.2026

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



WEB COPY



W.P.No.21041 of

Dr.ANITA SUMANTH, J.
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