

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-01-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

WA No. 1072 of 2022
and
CMP NO. 6682 OF 2022

The Accountant General
Accounts and Entitlements, Tamilnadu No.261,
Anna Salai, Teynampet, Chennai 18

..Appellant(s)

Vs

1. M.Radhakrishnan
S/o.Mannarsamy, No.4, Sundar Nagar, Salem
Main Road, Nochiyam, No.1, Tollgate,
Mannachchanallur Taluk, Trichy District
2. The State of Tamil Nadu
Rep by its Secretary to Government,Rural
Development and Panchayat Raj Department,
Secretariat, Chennai-600 009

..Respondent(s)

WA No. 1072 of 2022

To set aside the order passed by this Hon'ble Court in WP.
No.21883/2021 dated 02/11/2021

WA No. 1072 of 2022

For Appellant(s): Ms.V.Kanchana for Mr.V.Vijayashankar

For Respondent(s): Mr.K.Sanjay, For R1.
Dr.S.Suriya, AGP For R2.

Order

(Order of the Court was made by S.M.Subramaniam J.)

Under assail is the writ order dated 2.11.2021 in W.P.No.21883/2021. The Accountant General of Tamil Nadu is the appellant. The 1st respondent has instituted a writ proceedings challenging the rejection order, declining the claim of the 1st respondent to include the name of the second wife of the 1st respondent, Mrs.R.Revathy, in the Pension Payment Order as the nominee to receive the Family Pension.

2. The facts in brief would show that the 1st respondent is a retired Block Development Officer, retired on 31.07.2007 and receiving pension as of now. Admittedly, the 1st respondent, during the life time of his first wife Mrs.R.Vasantha contracted second marriage with Mrs.R.Revathy on 27.05.1992. The 1st respondent admittedly, married the second wife and living with two wives. The 1st respondent submitted an application before the Block Development Officer, Thoraiyur, on 21.4.2009 to include the names of both the wives as nominees in the Pension Payment Order so that both his wives shall receive Family Pension. The Block Development Officer forwarded the claim to the District Collector, Tiruchirappalli. The District Collector in turn recommended the application to the appellant/Accountant General of TamilNadu. The appellant rejected the claim, vide proceedings dated 29.07.2009, which resulted in filing of the writ petition.

3. The 1st respondent submitted that the first wife died on 10.08.2020. Therefore, there is no impediment to include the name of the second wife Mrs.R.Revathy as the nominee in Pension Payment Order to receive the Family Pension.

4. The appellant contended before the writ court that contracting marriage with the second wife during the life time of the first wife will not entitle the pensioner to include the name of the second wife as the nominee, since 2nd marriage becomes null and void. Therefore, application was rightly rejected by the Accountant General of TamilNadu.

5. Admittedly, the 1st respondent had contracted the second marriage on 27.05.1992. Thus, he has committed bigamy, which is an offence as well as misconduct under the TamilNadu Government Servants Conduct Rules. The 1st respondent's wife died on 10.08.2020, which is evident as per the death certificate produced. The second marriage with Revathy is null and void and her name cannot be included as a nominee in the Pension Payment Order. The writ Court considered the order passed in the case of **C.Sarojini Devi vs. The Director of Local Fund Audits dated 23.01.2020 in W.P.No.34952 of 2019** wherein it is held that "this Court has to necessarily lean towards the presumption of marriage". Based on the said order, writ petition came to be allowed. Thus, the Accountant General preferred the intra-Court Appeal under

Clause 15 of the Letters Patent.

6. This Court heard the arguments advanced on behalf of the parties to the lis on hand.

7. The writ Court has not considered the relevant Rules under the Tamilnadu Pension Rules 1978, which is to be followed for grant of pension and family pension. The eligibility for pension and family pension is of paramount importance, since the pension is a welfare scheme and being granted in accordance with the provisions of TamilNadu Pension Rules, 1978.

8. The facts regarding the second marriage during the life time of the first wife is not disputed. Thus, the second marriage is null and void. Even during the life time of both the wives, the 1st respondent submitted an application for inclusion of the names of both the wives in the Pension Payment Order which was rejected by the Accountant General of TamilNadu.

9. Rule 49 of the Tamil Nadu Pension Rules deals with family pension. The word “family pension” has been defined under Rule 3(1)(e) of the Tamil Nadu Pension Rules as follows:

“3(1)(e). Family Pension means Family Pension, 1964 admissible under Rule 49 but does not include dearness allowance; Sub Rule 6 of Rule 49, which provides the payment of family pension, reads as follows:

(6) The period for which family pension is payable shall be as follows:-

(i) in the case of widow or widower, up to the date of death or remarriage, whichever is earlier;

(ii) in the case of a son, until he attains the age of twentyone years, twentyfive years; and

(iii) In the case of an unmarried daughter, until she attains the age of twenty four years, thirty years, twenty five years or until she gets married whichever is earlier.”

Rule 7 (a)(i) of the Tamil Nadu Pension Rules reads as follows:

“7(a) (i) Where family pension is payable to more widows than one, the family pension shall be paid to widows in equal shares.

(ii) On the death of widow, her share of the family pension shall become payable to her eligible child;

[Provided that if the widow is not survived by any child, her share of the family pension shall cease to be payable] [Provided that if the widow is not survived by any child, her share of family pension shall be payable to the other widows in equal shares, or if there is only one such widow, in full to her.]

(b) Where the deceased Government servant or pensioner is survived by a widow but has left behind eligible child or children from another wife who is not alive, the eligible child or children shall be entitled to the share of family pension which the mother would have received if she had been alive at the time of the death of the Government servant or pensioner.

[Provided that on the share or shares of family pension payable to child or children or to a widow or widows ceasing to be payable, such share or shares shall be payable to the other widow or widows and or to the other child or children otherwise eligible, in equal shares, or if there is only one widow, or child, in full, to such widow or child] (C) Where the deceased Government servant or pensioner is survived by a widow but has left behind eligible child or children from a divorced wife or wives, the eligible child or children shall be entitled to the share of family pension which the mother would have received at the time of the death of the Government servant or pensioner had she not been so divorced.

[Provided that on the share or shares of family pension payable to such a child or children or to a widow or widows ceasing to be payable such share or share shall be payable to the other widow or widows and or to other child or children otherwise eligible, in equal shares, or if there is only one widow or child, in full, to such widow or child]

Explanation: For the purpose of this rules, the second wife shall be eligible for the benefits of family pension only if the second marriage-

(i) Solemnised as per the customary law prevailed among the community before the date of commencement of the Hindu Marriage Act, 1955 (Central Act 25 of 1955); or

(ii) Solemnised under the Mohammadan Law in which bigamy is permissible.”

Rule 19 of the Tamil Nadu Government Servants Conduct Rules, 1973, reads as follows:

19. Bigamous marriage:-

(1) (i) No Government servant shall, enter into or contract, a marriage with a person having a spouse living; and

(ii) No Government servant having a spouse living shall enter into or contract a marriage with any person:

Provided that the Government may permit a Government servant to enter into, or contract, any such marriage as is referred to in clause (i) or clause (ii) if they are satisfied that-

(a) such marriage is permissible under the personal law applicable to such Government servant and the other party to the marriage; and

(b) there are other grounds for so doing.

(2) No Government servant involve himself in any act involving moral turpitude on his part including any unlawful act, which may cause embarrassment or which may bring discredit to Government.

10. Learned counsel for the appellant relied on the judgment of the Division of this Court in the case of **R.Rajathi Vs The Superintendent**

Engineer¹ wherein the Rule 49 of the Pension Rules has been elaborately considered.

11. Tamil Nadu Government Servants Conduct Rules prohibits contracting of second marriage by the government employee during the lifetime of the first spouse. Contracting second marriage during the lifetime of the first spouse is a misconduct warranting departmental proceedings, which is considered as grave misconduct, under the Conduct Rules. The three Judges Bench of the Hon'ble Supreme Court in the case of **Raj kumari vs. Krishna**² considered the similar issue of grant of family pension to the second wife. Para 13 of the judgment reads as under.

“Normally, pension is given to the legally wedded wife of a deceased employee. By no stretch of imagination one can say that the plaintiff, Smt. Krishna was the legally wedded wife of late Shri Atam Parkash, especially when he had a wife, who was alive when he married to another woman in Arya Samaj temple, as submitted by the learned counsel appearing for the appellants. We are, therefore, of the view that the High Court should not have modified the findings arrived at and the decree passed by the trial court in relation to the pensionary benefits. The pensionary benefits shall be given by the employer of late Shri Atam Parkash to the present appellants in accordance with the rules and regulations governing service conditions of late Shri Atam Prakash.”

¹ (2018 (1) Writ L.R 725)

² (2015)14 SCC 511)

12. In the present case, the facts are not controverted between the parties. The second marriage was solemnised during the life time of the first wife. Death of the first wife would not provide a ground to claim family pension by the second wife, since the second marriage is void.

13. For all these reasons, this Court could able to arrive at an irresistible conclusion that the writ order impugned is not in consonance with the Pension Rules applicable for inclusion of the name of the second wife as nominee and grant of Family Pension. Thus, the impugned writ order dated 02.11.2021 in W.P.No.2183 of 2021 is set aside and the Writ Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (C.K.,J.)
27-01-2026

VSI
Index:Yes/No
Speaking order/non-speaking order
Neutral citation

To
The Secretary to Government,
Rural Development and Panchayat Raj Department, Secretariat,
Chennai-600 009

**S.M.SUBRAMANIAM J.
AND
C.KUMARAPPAN J.**

VSI

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