

News

The Madras High Court ruled that a government employee's second wife from a void marriage is not eligible for family pensions.



www.lawread.in



The Court ruled that getting married again while the first wife was still living was wrong and that a null and invalid marriage could not give pension rights even after the first wife passed away.

The Madras High Court ruled that a retired government employee's second wife is not eligible for his family pension because her marriage was deemed legally void due to the fact that it was consummated while the first wife was still living. [M Radhakrishnan & Arn. v. Tamil

Nadu's Accountant General]

A Division Bench consisting of Justices SM Subramaniam and C Kumarappan explained that a second wife would not be eligible for pension benefits if the first wife died later. The second marriage was formally consummated during the first wife's lifetime. Since the second marriage is null and void, the death of the first wife would not give the second wife the right to receive a family pension, the Court stated in its order of January 27.

The Accountant General of Tamil Nadu filed an appeal with the court after a High Court single judge had permitted the second wife to be listed as a nominee for the family pension in the Pension Payment Order.

A Block Development Officer who retired in 2007 was at issue in this case. He had remarried in 1992 while his first wife was still living.

He applied to have both of his wives included as nominees for his family pension once he retired. In 2009, however, the application was denied by the Accountant General, who declared the second marriage to be null and void.

The second wife then filed a petition, which a single judge granted in 2021.

The Division Bench, however, reversed the single-judge's ruling.

The Court emphasized that pension and family pension are welfare benefits awarded strictly in accordance with legal eligibility by citing the provisions of the Tamil Nadu Government Servants Conduct Rules, 1973 (rules regulating the behavior and duties of government employees) and the Tamil Nadu Pension Rules, 1978 (rules governing pension entitlements for state employees).

The bench pointed out that while the Conduct Rules forbid a government employee from getting married to someone else while their spouse is still alive, Rule 49 of the Pension Rules specifies family pension eligibility.

The Court further noted that it is misconduct to enter into a second marriage while the first husband is still alive.

According to the judgment, "under the Conduct Rules, entering into a second marriage while the first spouse is still alive is a misconduct that warrants departmental proceedings, which is considered grave misconduct."

Additionally, the Court cited previous Supreme Court and High Court rulings that maintained that pension rights are only granted in officially recognized marriages.

It concluded that the facts in this case were unambiguous and undeniable, and that the second marriage was void because it was consummated while the first wife was still alive.

As a result, the High Court granted the Accountant General's appeal and overturned the single-judge ruling.

The Accountant General (Appellant) was represented by attorneys V Kanchana and V Vijayashankar.

Advocate K Sanjay represented the pensioner, while Additional Government Pleader (AGP) S Suriya represented the State.