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(2010) 09 MAD CK 0170

Madras High Court (Madurai Bench)

Case No: Writ Petition (MD) No. 6823 of 2008

Adlin Maria rep. by her father and Guardian J. Mohandas	APPELLANT
Vs	
The Accountant General, The Assistant Accounts Officer, (Accounts and Entitlements) and The Sub-Treasury Officer	RESPONDENT

Date of Decision: Sept. 14, 2010

Citation: (2010) 09 MAD CK 0170

Hon'ble Judges: K. Chandru, J

Bench: Single Bench

Advocate: K. Sree Kumaran Nair, for the Appellant; S.C. Herold Singh, Government Advocate For Respondents 2 and 3, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

K. Chandru, J.
The petitioner is a minor represented by her father and guardian, Mr. J. Mohandas. It is claimed that the petitioner was born as a girl child on 13.12.1992. She was adopted by Rosammal on 06.10.1999 and she has been the adopted daughter of the said Rosammal. The said Rosammal was an Office Assistant in the Government High School at Kumarapuram and she retired from service on 31.12.2006. In the service book of the said Rosammal, the minor Adlin Maria was shown as legal heir. Subsequently, after retirement, the said Rosammal was receiving the pension and unfortunately, she passed away on 04.08.2007. Subsequent to her death, being the legal heir and adopted daughter of late Rosammal, she was claimed for pension and arrears of payment. The amount was

also deposited in the Savings Bank account. The Headmaster of the High School gave a representation to the first respondent with a copy marked to the third respondent claiming family pension in favour of the minor Adlin Maria. The second respondent by order dated 14.05.2008 rejected the said request. The said order signed by the Assistant Accounts Officer/Per XI, who is cited as second respondent herein. It is necessary to reproduce the said order as under:

With reference to your letter cited above, it is stated that as per Christian law adoption is not considered valid. Hence, the question of granting family pension to the adopted child of Selvi.M. Rosammal (PPO No. 625080Kdg) does not arise.

2. Subsequent to the said rejection, a legal notice was sent by the learned Counsel for the petitioner. As there was no reply, the present writ petition came to be filed. Notice of motion directed to be issued except the Accountant General (A& E), the other respondents were served. The question that arises for consideration is whether the Christian parent or Christian woman is entitled to adopt a child of her own. The question is no longer res integra. Similar question came to be considered by this Court in a decision reported in 2009 (8) M LJ 309 (R.R. George Christopher and another). This Court after going into the legal issues including the canon of law applicable to the Christian and also the provisions of the Juvenile Justice Act held that the Christian are also entitled for adopting a child. In paragraph 21, it was observed as follows:

21. The applicants having approached this Court and got a guardianship order and subsequently, performed necessary rites for adopting the child, the stand of the respondent is not legally valid. Instead of encouraging people to adopt children with a view to rehabilitate and socially reintegrate, the Air India, which is a Public Sector Undertaking, has come up with a plea that the petitioners are only guardians and therefore, their adopted child cannot get any benefits otherwise available to the children of Air India Staff. It is a spurious argument. Apart from that, their stand is opposed to the law of the land. It is further shows their insensitiveness and ignorance regarding the development of Law in this Country.

3. In the light of the clear legal position, the stand taken by the respondents cannot be countenanced by this Court. Hence, the impugned order is set aside and the writ petition is allowed. The respondents are directed to confer all pension and terminal benefits and the arrears that are available to the minor Adlin Maria. The said exercise shall be carried out within a period of eight weeks from the date of receipt of a copy of this order. No costs.