



2026:KER:45226

WP(C) NO. 32691 OF 2018

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IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN
TUESDAY, THE 23RD DAY OF JUNE 2026 / 2ND ASHADHA, 1948

WP(C) NO. 32691 OF 2018

PETITIONERS:

- 1 VASANTHA K
AGED 48 YEARS
W/O LATE VELAYUDHAN (KSRTC), KUNNUMEL, NEELESWARAM P.O,
KOZHIKODE.
- 2 DIVESH
AGED 27 YEARS
S/O VELAYUDHAN (KSRTC), KUNNUMEL HOUSE, NEELESWARAM
P.O., KOZHIKODE.

BY ADV SMT.T.B.MINI

RESPONDENTS:

- 1 KERALA STATE ROAD TRANSPORT CORPORATION
REP. BY ITS CHAIRMAN AND MANAGING DIRECTOR, TRANSPORT
BHAVAN, FORT, THIRUVANANTHAPURAM-695023
- 2 DISTRICT TRANSPORT OFFICER
KOZHIKODE, OFFICE OF KSRTC, KOZHIKODE-673021.
- 3 ASSISTANT TRANSPORT OFFICER
KOZHIKODE DEPOT, KSRTC, KOZHIKODE-673021.
- 4 THE DISTRICT COLLECTOR
CIVIL STATION, MALAPARAMBU, KOZHIKODE-673021.
- 5 THE TAHSILDAR
TALUK OFFICE, KOZHIKODE-673021.
- 6 LAKSHMI
PONGHADAN HOUSE, CHEVIDACHALIL, PAZHAYANGHADI P.O.,
KANNUR DISTRICT-670303.



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WP(C) NO. 32691 OF 2018

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BY ADVS.
SHRI.DEEPU THANKAN
SHRI.P.MURALEEDHARAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
12.06.2026, THE COURT ON 23.06.2026 DELIVERED THE FOLLOWING:



:-3:-

J U D G M E N T**'CR'**

The above writ petition is filed with the following prayers:-

- “(i) Issue a writ of mandamus or any other writ or direction directing 1st respondent to disburse the service benefits to the petitioners and the mother of late Velayudhan.C.;
- (ii) Issue a writ of mandamus or any other writ or direction directing the 1st respondent to give employment on dying-in-harness scheme to the 2nd petitioner;”

2. Petitioners are the legal heirs of late Velayudhan.C., who was working as Vehicle Supervisor in KSRTC. He died on 07.05.2015 while he was on duty. The first petitioner is the legally wedded wife and the second petitioner is the son born in the wedlock of the late Velayudhan.C. and Vasantha.K. The petitioners belong to the scheduled caste community. Late Velayudhan was the only earning member of the family. Ext.P1 is the death certificate of late Velayudhan. Ext.P2 is the identity card issued by the second respondent to the late Velayudhan. After the death of Velayudhan, the first petitioner applied before the Tahsildar, Kozhikode for getting a legal heirship certificate. Thereafter,



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Ext.P5 legal heirship certificate was issued to the petitioner and an application was submitted before the first respondent for getting the service benefits of late Velayudhan and also for getting the employment assistance for the second petitioner under the dying-in-harness scheme in 2016. Though all documents were submitted, the respondents 1 to 3 failed to disburse the service benefits and consider the application for employment on the basis of the dying-in-harness scheme. Aggrieved by the same, the petitioners have approached this Court with the above writ petition.

3. A counter affidavit is filed by the sixth respondent who alleges to be the second wife of late Velayudhan. According to the sixth respondent, she married Velayudhan on 14.09.2000 and in their wedlock, two children were born, Deepak.P. and Dilna.P. She and the late Velayudhan lived together with their two children till the death of C.Velayudhan. It was also contended that during the lifetime of Sri.Velayudhan, he had taken LIC policies wherein the nominee was recorded as Lakshmi.P. and Dilna.P. It was also contended that the first petitioner is not the legally wedded wife of late Velayudhan.C. Ext.R6(q) is the legal heirship certificate, which



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was produced by the sixth respondent before this Court. It was contended that the sixth respondent and her children are the legal heirs of late Velayudhan and the petitioners are not entitled to get the relief as prayed for and sought for dismissal of the writ petition.

4. A counter affidavit is also filed by respondents 1 to 3 wherein it is stated as follows:-

The fact that Sri.Velayudhan.C. expired on 07.05.2015 while he was working as vehicle supervisor is admitted. It is contended that the first petitioner as well as the sixth respondent had given applications for getting the terminal benefits of the deceased Velayudhan. Since two applications were received claiming to be the wife of late Velayudhan, Ext.P7 communication was issued directing the petitioners to produce the succession certificate from the competent court. Since no succession certificate was produced by the petitioners, the petitioners are not entitled to get any relief as prayed for. The terminal benefits and family pension of the deceased Velayudhan can be released to the person shown in the succession certificate on production of the



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6. It is an admitted fact that the second petitioner and the children of the sixth respondent are the children of late Velayudhan. As per the documents produced, it reveals that the first petitioner is the legally wedded wife of late Velayudhan. The sixth respondent has produced Ext.R6(q) legal heirship certificate, wherein the following persons are shown as the legal heirs:-

ക്രമ നമ്പർ	പേര്	പദയോഗ്യത / പദയോഗ്യമായുള്ള ബന്ധം	വയസ്സ്
1	റസ്മത്	ഭാര്യ	44
2	ദിനേഷ്	മകൻ	24
3	ചക്കി	മാമ്മാവ്	73
4	ദ്വിപ്രാജ്	അമ്മ ഭാര്യ ലക്ഷ്മിയുടെ മകൾ	13
5	ദീപതി	" " " " മാപ്പിള "	08

In Ext.R6(q), the name of the sixth respondent is not reflected as a



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legal heir. At the time of hearing, the learned counsel for the petitioners concedes the correctness of Ext.R6(q), the legal heirship certificate issued by the Tahsildar, Kozhikode, and submits that the persons shown at Serial Nos. 4 and 5 are the legitimate children of late Velayudhan C. Moreover, Ext.R6(q) is produced by the sixth respondent and she has not raised any objection to the said certificate. Accordingly, there is no dispute regarding the legal heirs of the late Velayudhan C.

7. The only issue that remains for consideration is to whom the terminal benefits and the family pension of late Velayudhan.C. is to be paid. There is no material on record to establish that the sixth respondent was the legally wedded wife of the deceased. It is clear that, while his first marriage was subsisting, late Velayudhan C. cohabited with the sixth respondent, and two children were born out of that relationship.

8. Learned counsel for the petitioners relied on the judgment of the Apex Court in **Rameshwari Devi v. State of Bihar** [2000 KHC 507] wherein the Apex Court held that the second wife taken by a deceased Government employee during the



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subsistence of his first marriage cannot be described as a widow of a deceased employee, as such their marriage is void. The court further held that sons of the marriage between deceased employee and second wife being the legitimate sons of deceased would be entitled to the property of deceased employee in equal shares along with that of first wife and the sons born from the first marriage. When Hindu male dies intestate, the children of the deceased employee born out of the second wedlock would be entitled to share in the family pension and death-cum-retirement gratuity.

9. In the present case, admittedly, there is no dispute that the first petitioner is the legally wedded wife of late Velayudhan C., the second petitioner is his son, and that the children born to the sixth respondent are the legitimate children of late Velayudhan.C. The petitioners and the sixth respondent being Hindus, are governed by the Hindu Marriage Act, 1955.

10. Section 16 of the Hindu Marriage Act reads as follows:-

"16. Legitimacy of children of void and voidable marriages.-(1) Notwithstanding that a marriage is null and void under section 11, any child of such marriage who would have been



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legitimate if the marriage had been valid, shall be legitimate, whether such child is born before or after the commencement of the Marriage Laws (Amendment) Act, 1976, and whether or not a decree of nullity is granted in respect of that marriage under this Act and whether or not the marriage is held to be void otherwise than on a petition under this Act.

(2) Where a decree of nullity is granted in respect of a voidable marriage under section 12, any child begotten or conceived before the decree is made, who would have been the legitimate child of the parties to the marriage if at the date of the decree it had been dissolved instead of being annulled, shall be deemed to be their legitimate child notwithstanding the decree of nullity.

(3) Nothing contained in sub-section (1) or sub-section (2) shall be construed as conferring upon any child of a marriage which is null and void or which is annulled by a decree of nullity under section 12, any rights in or to the property of any person, other than the parents, in any case where, but for the passing of this Act, such child would have been incapable of possessing or acquiring any such rights by reason of his not being the legitimate child of his parents."

That being the legal position, when Hindu male dies intestate, the children of the deceased employee born out of the second wedlock would be entitled to share in the family pension and death-cum-retirement gratuity. However, the second wife will not be entitled to get the retirement benefits nor the family pension and the children of the second wife will be entitled to benefits only till they



attain majority.

11. The learned counsel for the sixth respondent submitted that the son of the sixth respondent is also entitled to apply for appointment under the dying-in-harness scheme. However, that is a matter exclusively concerning the sixth respondent and her family members. So far no application has been filed by the children of the sixth respondent before respondents 1 to 3.

12. Thus, considering the facts of the case, I find that the first petitioner-wife, the second petitioner-son and the legitimate children of the sixth respondent and the mother of the deceased, who are shown as legal heirs in Ext.R6(q) are entitled for retirement benefits and the death-cum-retirement gratuity benefits. It is also the case of the petitioners that the second petitioner had filed an application for employment under the dying-in-harness scheme, 2016. Due to the dispute between the parties regarding the legal heirs of the deceased, the application filed by the second petitioner was not considered by the respondent-KSRTC. Hence, I find that a direction can be given to respondents 1 to 3 to consider the application filed by the second petitioner for



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employment under the dying-in-harness scheme.

Accordingly, the writ petition is allowed as follows:-

1. Respondents 1 to 3 are directed to disburse the death-cum-retirement gratuity and other retirement benefits including family pension payable on account of the death of Velayudhan.C. to his legal heirs shown in Ext.R6(q) in accordance with law.
2. The respondents 1 to 3 shall also consider the application, if any, filed by the second petitioner for employment under the dying-in harness scheme within a period of three months from the date of receipt of a certified copy of this judgment.
3. It is made clear that if the second petitioner does not intend to seek appointment under respondents 1 to 3, the children of the sixth respondent shall be at liberty to apply for appointment under the dying-in harness scheme, if eligible as per law.

Sd/-

**SHOBA ANNAMMA EAPEN
JUDGE**

MBS/



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APPENDIX OF WP(C) NO. 32691 OF 2018

PETITIONER EXHIBITS

EXHIBIT P1	TRUE COPY OF DEATH CERTIFICATE OF ABOVE LATE VELAYUDHAN.
EXHIBIT P2	THE TRUE COPY OF IDENTITY CARD ISSUED TO LATE VELAYUDHAN FROM 2ND RESPONDENT.
EXHIBIT P3	THE MARRIAGE RECEIPT ISSUED FROM NADUVIL SIVA TEMPLE ON 2.5.1986.
EXHIBIT P4	THE TRUE COPY OF RATION CARD OF VELAYUDHAN ON 24.12.2008.
EXHIBIT P4	TRUE COPY OF THE RATION CARD ISSUED TO VASANTHA ON 15.3.2017
EXHIBIT P5	THE TRUE COPY OF LEGAL HEIR SHIP CERTIFICATE ISSUED TO THE PETITIONER BY NO.KDSI6356/2017 DATED 31.1.2018.
EXHIBIT P6	A TRUE COPY OF POWER OF ATTOENEY ISSUED IN THE NAME OF IST PETITIONER.
EXHIBIT P7	THE TRUE COPY OF LETTER DATED 17.5.2017 HAVING NO.PA2/0282986/2016.
EXHIBIT P8	THE TRUE COY OF AGREEMENT DATED 30.8.2018 BETWEEN PETITIONER AND 6TH RESPONDENT.