

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.3521 of 2015

1. M.Lakshmi ... Petitioner

Vs

1. The Principal Accountant General
(Accounts and Entitlements)
No.361, Anna Salai
Teynampet, Chennai-18.
 2. The Secretary to Government
State of Tamil Nadu
Revenue Department
Fort St. George, Chennai-9.
 3. The Tahsildar
Kodavasal Taluk
Kodavasal, Thiruvavarur District.
- ... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus directing the 3rd respondent to re-submit the proposal of payment of Death cum Retirement Gratuity payable to the petitioner on the death of Petitioner husband late T.Manohar who died on 22.10.2009 while serving as Village Assistant consequently direct the 1st respondent to sanction the same in accordance with the Tamilnadu Village Assistants Pension Rules, 1995 within a stipulated time.

For Petitioner : Mr.S.P.Sudalaiyandi

For Respondents : Mrs.Hema Muralikrishnan for R1
Mr.P.Sanjay Gandhi, AGP
for R2 & R3

O R D E R

The failure on the part of the first respondent to pay the Death Cum Retirement Gratuity (hereinafter referred to as "DCRG") to the petitioner made her to file this Writ Petition.

2. The petitioner is the widow of Thiru T.Manohar. The husband of the petitioner served as Village Assistant. His services were brought under regular time scale of pay with effect from 1.6.1995 pursuant to the Government Order in G.O.Ms.No.625, Revenue Department dated 6.7.1995. The Government have issued orders in G.O.Ms.No.9 dated 28.2.2006 sanctioning pension to the erstwhile Village Assistants.

3. The husband of the petitioner died on 22.10.2009. He had put in 15 years of service, which includes his earlier service before regularization. The third respondent submitted a proposal to the first respondent by proceedings dated 16.1.2012, recommending payment of statutory benefits. The first respondent by order dated 14.2.2012 sanctioned family pension to the petitioner. However, DCRG was not paid on the ground that there was no specific Rule permitting payment of DCRG to the Village Assistants. According to the petitioner, the said issue has already been clarified by this Court earlier and as such the first respondent erred in non-payment of DCRG.

4. The petitioner therefore seeks a direction to the first respondent to pay DCRG taking into account the service of her husband.

5. The first respondent filed a counter affidavit, wherein it was contended that the Government have not given any clarification for payment of DCRG in the case of Village Assistants, who died in harness. In short, the alleged delay on the part of the Government in clarifying the issue made the first respondent not to consider the claim made by the petitioner for payment of DCRG.

6. The moot question for consideration is as to whether the petitioner is eligible for DCRG consequent to the death of her husband on 22.10.2009. सत्यमेव जयते

7. The issue raised by the petitioner is no longer res integra, in view of the earlier decision of this Court dated 21.6.2011 in Writ Petition No.12215 of 2011. This Court made it clear that Village Assistant, who has completed five years of of qualifying service and has become eligible for service gratuity on his retirement, is entitled to DCRG.

8. The order passed by this Court appears to have been overlooked by the first respondent while taking up a contention that there is no clarification as to whether DCRG is payable to the Village Assistant, who died in harness. I am therefore of the view that the first respondent was not correct in keeping the matter pending under the guise of failure on the part of the Government to issue necessary clarification. The petitioner is therefore entitled to succeed.

9. In the result, a writ in the nature of a Writ of Mandamus is issued, directing the third respondent to send proposal to the first respondent for payment of DCRG to the petitioner. Such exercise shall be completed by the third respondent, within a period of two weeks from the date of receipt of a copy of this order. The first respondent is directed to consider the said proposal and make payment to the petitioner as expeditiously as possible and in any case, within a period of three weeks from the date of receipt of proposal.

10. The Writ Petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar

//True Copy//

ajr

Sub Assistant Registrar

To

1. The Principal Accountant General
(Accounts and Entitlements)
No.361, Anna Salai
Teynampet, Chennai-18.

2. The Secretary to Government
State of Tamil Nadu
Revenue Department
Fort St. George, Chennai-9.

3. The Tahsildar
Kodavasal Taluk
Kodavasal, Thiruvavarur District.

+1cc to Mr.S.P.Sudalaiyandi, Advocate, S.R.No.16016

W.P.No.3521 of 2015

TS(CO)
CA(25/03/2015)