

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17/3/2016

C O R A M

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.34690 of 2015

Mrs.Vanaja

... Petitioner

Vs

1. The State of Tamil Nadu
rep. By its Principal Secretary to Government
Revenue Department
Fort St. George
Chennai 600 009.
 2. The District Collector
Salem District
Salem.
 3. The Special Deputy Collector
Social Security Scheme (SSS)
Office of the District Collectorate
Salem 636 001.
 4. The Special Tahsildar
Social Security Scheme (SSS)
Mettur Taluk
Mettur Dam
Salem District.
- ... Respondents

(R-4 cause title amended as per order
dated 8/3/2016 by RPSJ in
W.M.P.No.744 of 2016 in
W.P.No.34690 of 2015)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the impugned order made in Na.Ka.No.14/2015/A6 dated 11/8/2015 passed by the fourth respondent herein and quash the same and consequently direct the respondents to disburse the petitioner's husband viz., Moorthy's death compensation to her as per the scheme within the stipulated time.

For Petitioner ... Mr.M.R.Jothimanian

For respondents ... Mr.V.Jayaprakash Narayanan
Special Government Pleader

O R D E R

With the consent of the learned counsel appearing on either side, this writ petition is taken up for final disposal.

2. Heard Mr.M.R.Jothimanian, learned counsel for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader for the respondents.

3. This writ petition has been filed praying to quash the order passed by the fourth respondent in Na.Ka.No.14/2015/A6, dated 11/8/2015 and consequently direct the respondents, to disburse the compensation amount to the petitioner as per the scheme.

4. The short facts which are necessary for the disposal of this writ petition is as follows:-

The petitioner's husband met with an accident and died on 7/4/2014 and a criminal case under Sections 279, 337 and 304 A of the Indian Penal Code has been registered in Crime No.93 of 2014 by the Inspector of Police, Thoppur Police Station (Omalur Sub-division).

5. The Government of Tamil Nadu had issued a special scheme, viz., Tamil Nadu Agricultural Labourers - Farmers Scheme, 2006, in G.O.Ms.No.265, dated 10/9/2011, to provide death compensation to the members of the deceased family. As per the said scheme, the fourth respondent had issued membership card to the petitioner's family, bearing No.10/E/15(16774).

6. After the death of the petitioner's husband, the petitioner had made an application to the fourth respondent for disbursement of death benefits and the same was forwarded to the Revenue Inspector, Kadayampatti Village and an enquiry was conducted by the Revenue Inspector and the same was forwarded to the fourth respondent for disbursement of the said amount to the family of the petitioner.

7. Since the same has not been considered, the petitioner had made several representations to the respondents 2 to 4 for death compensation. On 6/7/2015, the petitioner had made another representation to the respondents and the same was forwarded by

the second respondent to the fourth respondent, on 27/8/2015. But the claim of the petitioner was rejected in Na.Ka.No.14/2015/A6, dated 11/8/2015. Aggrieved against the same, the petitioner has come forward with the present writ petition praying for the relief as stated above.

8. In the counter affidavit filed by the fourth respondent, it is stated that the deceased was under the influence of alcohol at the time of accident. The death has not caused during agricultural work. Moreover, the deceased Moorthy had not registered his name in the aforesaid Scheme, as contemplated in G.O.Ms.No.265, dated 10/9/2011 and the petitioner has not submitted Merun colour card or ration card, to substantiate his case. Hence prays for dismissal of the writ petition.

9. The learned counsel appearing for the petitioner would submit that the fourth respondent ought to have considered the claim of the petitioner, as per the scheme of the Government in G.O.Ms.No.839 of 2006, dated 22/12/2006, based on the membership card given by the fourth respondent.

10. The learned counsel appearing for the petitioner would submit that there is no reference in the post-mortem certificate to show that the petitioner's husband was under the influence of alcohol at the time of accident. The learned counsel appearing for the petitioner would further submit that the deceased had married the petitioner only recently and they had made an application for the issuance of new family card only very recently. In the meantime, death had happened.

11. Though this writ petition has been filed for a positive direction, this Court is not inclined to give such a positive direction. However, considering the facts and circumstances of the case and upon hearing the learned counsel appearing on either side, this Court is of the considered view that the fourth respondent has not passed a detailed order while rejecting the request of the petitioner and hence, the impugned order passed by the fourth respondent is liable to be set aside. Accordingly, the impugned order passed by the fourth respondent is hereby set aside. Consequently, this Court is constrained to pass the following order.

12. The petitioner is directed to submit a fresh representation to the respondents along with a copy of this order, within a period of two weeks, from the date of receipt of a copy of this order and on receipt of the same, the fourth respondent is directed to consider the case of the petitioner, by affording personal hearing to her and pass a fresh order, on merits and in accordance with law, within a period of six weeks thereafter.

13. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (AS)

/true copy/

Sub Asst. Registrar

mvs.

To

1. The Principal Secretary to Government
State of Tamil Nadu
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2. The District Collector
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4. The Special Tahsildar
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Mettur Taluk
Mettur Dam
Salem District.

1 cc to Government Pleader, Sr. 17393

1 cc to Mr.M.R. Jothimanian, Advocate, Sr. 17257

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