

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.30214 of 2016

H.N.Parvathi
Petitioner

...

Vs

1. The Director of School Education,
DPI Campus, Chennai
 2. The Accountant General (Accounts &
Entitlements), Tamilnadu,
361, Annasalai, Teynampet,
Chennai - 600 018
 3. The Directorate of Pension,
259, Anna Salai, 3rd Block, 2nd floor
Teynampet, Chennai - 600 006
 4. The Chief District Educational Officer,
Udagamandalam, Nilgiris District
 5. The District Education Officer,
Gudalur, Nilgiris District
- Respondents

...

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned orders of the 5th respondent dated 07.03.2016 in O.Mu.No.0245/A2/2016 and that of the 2nd respondent dated 26.04.2016 in Pen13/1/DAG Complaint C100/15-16/9/8112 and quash the same and consequently direct the respondents 1 to 5 to disburse the death certificates of deceased, H.N.Subramani to the petitioner with delay interest; within the time limit.

For Petitioner : Mr.K.Sridhar
For Respondents : Mr.R.Venkatesh
Government Advocate

O R D E R

With the consent of either side, the Writ Petition itself is taken up for final disposal at the admission stage.

2. The petitioner, who is one of the un-married sister of
<https://hcservices.ecourts.gov.in/hcservices/>

the deceased/brother, government servant, has sought for the pensionary/gratuity benefits.

3. According to the petitioner, she is also a dependent on the deceased government servant and she has already produced a legal heir ship certificate. There are five sisters including the petitioner and all the other four sisters have given no objection certificate for the petitioner receiving pensionary benefits/gratuity. In spite of producing legal heirship certificate and no objection certificate, the petitioner's request for pensionary benefits/gratuity, has been returned on the ground directing her to produce a succession certificate.

4. The learned counsel for the petitioner submitted that even as per the Tamilnadu Pension Rules, 1978 under sub rule (5) of the Rule 45, the relations in respect of the deceased persons are enumerated in Clause Nos.(i) to (ix) and as per Clause no.(ix), un-married sisters and widow sisters including step sisters can be nominated for the purpose of receiving pensionary benefits / gratuity. In the very same rules, it also specifies, in the event, if the Government servant does not nominate any one as classified in Clause Nos.(i) to (ix), succession certificate need to be produced. Since the petitioner comes under Clause Nos. (i) to (ix), especially in Clause No. (ix), the returning of the application on the ground of production of succession certificate, is not correct. Hence her application for pensionary benefits / gratuity can be considered .

5. The learned Government Advocate appearing for the respondents would submit that since no nomination was made, they have also asked for production of the same.

6. On a careful consideration of materials before this Court, it is clear, that the Tamilnadu Pension Rules, 1978 clearly specifies what are the occasions and the persons, who are eligible for gratuity. Therefore, it is for the authority to consider the same in accordance with the said Rules as mentioned supra especially whether the petitioner comes within the enumerated norms under the Tamil Nadu Pension Rules, 1978.

7. In view of all the above, the 2nd respondent is directed to consider the request of the petitioner in accordance with Tamilnadu Pension Rules, 1978 under sub rule (5) of the Rule 45, within a period of three months from the date of receipt of a copy of this order on the petitioner submitting the papers within ten days from the date of receipt of this Order.

With the above observation, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Director of School Education,
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Udagamandalam, Nilgiris District
5. The District Education Officer,
Gudalur, Nilgiris District

+lcc to M/s. K. Sridhar, Advocate, S.R.No.49220
+lcc to the Government Pleader, S.R.No.49804

CNR(CO)
EU(22/09/2016)

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