



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Wednesday, the Twenty Sixth day of October Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

CMP(MD) No.9791 of 2016
IN SA(MD) No.520 of 2015

NALAYIRAM

..PETITIONER/APELLANT

Vs.

1 GANESAN,

..RESPONDENT/1ST DEFENDANT

2 THE PROPRIETOR,
M.S.V.BEEDI COMPANY,
108, METTU STREET,
KULATHOOR ROAD,
THIRUNELVELI TOWN,
THIRUNELVELI DIST.

..2ND RESPONDENT/2ND DEFENDANT

3 THE COMMISSIONER
EMPLOYEES PROVIDENT FUND OFFICE,
N.G.O.B.COLONY, THIRUNELVELI,
THIRUNELVELI DISTRICT.

..3RD RESPONDENT/APELLANT/
3RD DEFENDANT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to an order directing the 3rd respondent to receive the Doctor's Certificate in respect of age of me after submitting myself before District Medical Officer, Thirunelveli for examination as additional documents.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.S.DEVASENA, Advocate for the petitioner and of Mr.S.KARTHICK, Advocate for R1 and R2 and Mr.K.MURALISHANKAR, Advocate for R3, the court made the following order:-

This application is to direct the third respondent to receive the Doctor's Certificate in respect of the age of the petitioner.

2. The petitioner has neither appeared before District Medical Officer, Tirunelveli, nor obtained a certificate. However, the learned counsel for the respondents fairly conceded that if a member like the appellant is not able to produce any documentary evidence, as per Appendix-1 regarding his/her date of birth, he or she will have to undergo medical examination for determination of his or her date of birth followed by an order of First Class Magistrate following the due process. It is also conceded that the Date of Birth Certificate issued by the Magistrate as per the above procedure can be accepted for settlement of pension claim. Already, the appellant has obtained the Date of Birth Certificate issued by



the Magistrate, however, without observing the procedure that has been approved by the Provident Fund Organisation. A Certificate from the District Medical Officer concerned is the pre-requisite for considering the appellant's claim. The learned counsel for the respondents also submitted that the appellant's claim can be considered only if she has returned the amount which she had received earlier under the scheme.

3. In that view of the matter, this Court passes the following order:

(a) the petitioner is directed to appear before the District Medical Officer, Tirunelveli and on her appearance within a period of two weeks from today, the District Medical Officer, Tirunelveli, may examine the petitioner and give the petitioner the certificate of her age after examination of the petitioner and in accordance with the procedure and practice for ascertaining the age of a person.

(b) Upon receipt of the certificate from the District Medical Officer, Tirunelveli, the petitioner is directed to approach the third respondent and the third respondent will consider her case on the basis of the certificate and pass orders.

(c) The petitioner is further directed to cooperate with the third respondent to make her claim considered in terms of the rules that are in vogue.

(d) The third respondent is directed to give sufficient time to the petitioner to avail the benefit of the scheme. If the petitioner need to return the amount she had received earlier, the same may be returned and the third respondent upon payment of such amount by a Demand Draft or any other acceptable mode of payment shall consider the case of petitioner.

This Court makes it clear that on the basis of the decision of the third respondent, the second appeal will be taken up and decided finally. This application is ordered accordingly.

sd/-

26/10/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE DISTRICT MEDICAL OFFICER, TIRUNELVELI.
- 2 THE COMMISSIONER, EMPLOYEES PROVIDENT FUND OFFICE,
N.G.O.B.COLONY, THIRUNELVELI, THIRUNELVELI DISTRICT.

+1. C.C. to M/S. S.DEVASENA Advocate SR.No.64142

+1cc to M/s.K.MURALISHANKAR, Advocate in SR.64810

ORDER IN

CMP(MD) No.9791 of 2016

IN SA(MD) No.520 of 2015

Date :26/10/2016