



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:04.02.2016

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)No.23261 of 2015

Sumathi @ Backiyalakshmi

... Petitioner

Vs.

1.The Chief Educational Officer,
Theni,
Theni District.

2.The District Elementary Educational Officer,
Theni,
Theni District.

3.The Assistant Elementary Educational Officer,
Periyakulam,
Theni District.

4.The Secretary,
Nellaiyappar Middle School,
Periyakulam,
Theni District.

5.The Accountant General (A & E),
No.361, Annasalai,
Teynampet, Chennai - 08.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to provide the retirement benefits due to the petitioner's husband by name K.Pethanasamy, who worked as the Secondary Grade Teacher and found to be missing from 14.08.2014 while in service and was declared as civil death by the competent civil Court and consequently to direct the respondents to provide the family pension and all other monetary benefits to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.T.S.Mohammed Mohideen,
Additional Government Pleader

ORDER

Heard both sides.

2. The petitioner seeks for a Mandamus directing the respondents to provide the retirement benefits due to the petitioner's husband by name K.Pethanasamy, who worked as a Secondary Grade Teacher and found to be missing from 14.08.2014 while in service and was declared to have suffered civil death by the competent civil Court and to direct the respondents to provide the family pension and all other monetary benefits

to the petitioner, within a stipulated time.

3. The case of the petitioner is that the petitioner is the wife of one Pethanasamy, who was working as a Secondary Grade Teacher in the fourth respondent school from the year 2012. The fourth respondent school is a private aided middle school. The husband of the petitioner is said to be missing from 14.08.2004. All the efforts taken by the petitioner to find out the whereabouts of her husband ended in futile. Hence, after the passage of seven years, a civil suit in O.S.No.76 of 2012 was filed before the District Munsif Court, Periyakulam, seeking for declaration of civil death of her husband. Accordingly, a decree was also passed on 03.12.2012. On the strength of the said decree, the petitioner had applied for death-cum-retirement benefits due to her husband and made a representation on 26.10.2015, which is kept pending by the authorities. Hence, she has come forward with the present Writ Petition seeking for the relief stated supra.

4. The petitioner also relies on the Government Order in G.O.Ms.No.478 Finance (Pension) Department, dated 04.06.1987 and G.O.Ms.No.43, Finance (Pension) Department, dated 22.01.1991, wherein it is stated that once an employee is disappeared, the benefit should be extended to the legal heirs after getting undertaking, including indemnity bond executed.

5. The learned Additional Government Pleader appearing for the respondents has also got no objection for considering the case of the petitioner.

6. It is seen that earlier this Court got occasion to deal with the similar circumstances and granted the relief sought for. Accordingly, this Court directs the respondents to pay the retirement benefits due to the petitioner's husband by name K.Pethanasamy, who worked as Secondary Grade Teacher and said to have attained a civil death by the competent civil Court and to provide the family pension and other death-cum-retirement benefits to the petitioner, within a period of three months from the date of receipt of a copy of this order. Whatever the arrears of pension, the petitioner is entitled also to be paid within the stipulated period.

With the above direction, the Writ Petition is disposed of. No Costs.

Sd/-

Assistant Registrar (Crl.side)

/True copy/

Sub Assistant Registrar

To

1.The Chief Educational Officer, Theni,
Theni District.

2.The District Elementary Educational Officer, Theni,
Theni District.



3.The Assistant Elementary Educational Officer,
Periyakulam, Theni District.

4.The Secretary,
Nellaiyappar Middle School, Periyakulam, Theni District.

5.The Accountant General (A & E), No.361, Annasalai,
Teynampet, Chennai - 08.

+1 CC to Mr.T.Lajapathi Roy, Advocate, SR No.7266

+1 CC to the Special Government Pleader, SR No.7114

W.P (MD) No.23261 of 2015
04.02.2016

pm

SH/GSV-AN :18.02.2016:3P/8C