



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MR. JUSTICE C.T.SELVAM

W.A.(MD)No.417 of 2016

in

W.P.(MD)No.2070 of 2004

(Minor) Aarthi
represented by her
Maternal grand father K.Ramasubbu
(4th respondent herein)

.. Appellant

Vs.

1.K.Kandasamy

2.District Educational Officer,
Virudhunagar,
Virudhunagar District.

3.Assistant Elementary Educational Officer,
Vembakottai, Virudhunagar District.

4.K.Ramasubbu

.. Respondents

PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patent against the order of this Court, dated 11.01.2007 made in W.P(MD) No.2070 of 2004.

Prayer in WP(MD). 2070/ 2004 :

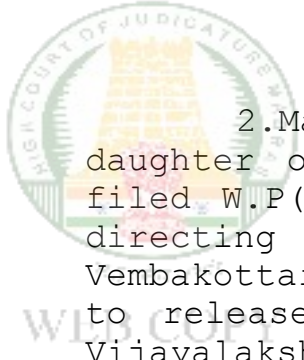
Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance a Writ of Mandamus directing the 2nd Respondent to release the pension amount and the service terminal benefits of the deceased Vijayalakshmi to the petitioner.

For Appellant	: Mr.M.Michael Bharathi
For R1 & R4	: No Appearance
For R2 and R3	: Mr.VR.Shanmuganathan Special Government Pleader

JUDGMENT

(Judgment of this Court was delivered by S.MANIKUMAR, J.)

Challenge in this writ appeal is to the order dated 11.01.2007, made in W.P(MD)No.2070 of 2004, with a delay of 131



2. Material on record discloses that the appellant is the daughter of one K.Kandasamy/first respondent herein. K.Kandasamy filed W.P(MD)No.2070 of 2004, for issuance of writ of Mandamus, directing the Assistant Elementary Educational Officer, Vembakottai, Virudhunagar District, the respondent No.2 therein, to release pension and terminal benefits of his deceased wife Vijayalakshmi, who was working as a teacher. However, the prayer of the 1st respondent herein has been opposed by the fourth respondent herein, the father of the deceased teacher referring Section 25 of the Hindu Succession Act, 1956, which reads as follows:-

"25. Murderer disqualified - A person who commits murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered, or any other property in furtherance of the succession to which he or she committed or abetted the commission of the murder."

3. Before the writ court, responding to the above, Kandasamy/husband has submitted that the allegation against him was only abetting suicide of his wife, for which, a Criminal case in S.C.No.1 of 2005 on the file of the learned Assistant Sessions Judge, Kovilpatti, was tried. He has also submitted that he was found guilty only under Section 306 IPC and convicted to undergo, simple imprisonment for a period of three years, against which, he has filed an appeal in CrI.A.No.993 of 2006.

4. At the time when the writ petition was heard, criminal appeal was pending. Taking note of the above submission and to meet the ends of justice, the writ court vide order, dated 11.01.2007 in W.P(MD)No.2070 of 2004 has directed Mr.K.Kandasamy to pay a sum of Rs.1,000/- p.m. to the appellant, who was a minor. The authorities therein, have been directed to review the matter and pass appropriate orders, after the disposal of the Criminal Appeal. Now, minor Aarthi through his maternal grand father, who has filed the present appeal, has contended *inter alia* that the writ Court should have directed payment of pension and other retirement benefits to her.

5. Material on record discloses that though by referring to Section 25 of the Hindu Succession Act, 1956, contentions have been made, the fact remains that the first respondent/Kandasamy has been found guilty only under Section 306 IPC, i.e. abetment to commit suicide and there is no charge for murder, and Section 25 of the Hindu Succession Act, 1956, is not attracted. As per the Tamil Nadu Pension Rules, husband is not dis-entitled to claim pension and other retirement benefits. Contention of the minor Aarthi, through her maternal grand father, that terminal benefits and pension should have been given to her in entirety cannot be accepted. Added further, Mr.M.Michael Bharathi, learned counsel for the appellant submitted that as of now, the appellant has



attained majority. Though, she had sought for a prayer regarding payment of terminal benefits, the same cannot be ordered in this writ proceedings.

6. In the result, the Writ Appeal is dismissed. No costs.

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Sd/
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. District Educational Officer,
Virudhunagar,
Virudhunagar District.
2. Assistant Elementary Educational Officer,
Vembakottai, Virudhunagar District.

CN/SKN-SK/31.03.2016/3P-3C

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