

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.5181 of 2017

1. V.Chitra
2. V.Vivek

..Petitioners

Vs

1. The Chief General Manager,  
Mines-II, NLC Ltd.,  
Neyveli,  
Cuddalore District.
2. The Deputy General Manager/ Finance  
Account Section, Mines-II,  
NLC Ltd., Neyveli,  
Cuddalore District.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st and 2nd respondents to make payment of all the death benefits of the deceased father of the petitioners with bank interest for the period of two years and nine months for withholding the dues without valid reasons to the petitioners forthwith.

For Petitioner : Ms.R.Meenakshi

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioners would aver that their father namely, S.Varadharajan was working as foreman in F.M.Yard Mechanical Mine-II, in the services of Neyveli Lignite Corporation (NLC) and died in harness on 05.05.2014. Prior to his demise he had put in 30 years of service. The father of the petitioner had nominated the petitioners as legal heirs in the service records

for the reason that their mother predeceased, their father on 24.02.1997. it is further averred that they have been paid with a sum of Rs.10 lakhs towards gratuity and the remaining dues are approximately Rs.16 lakhs and the said amount has been withheld by the respondents. The petitioner would further aver that one P.Murugesan, has filed a suit in O.s.No.154/2014 on the file of the I Additional Subordinate Court, Cuddalore against the petitioners as well as the Chief General Manager, Mines-II, NLC and the Deputy General Manager, Account Seciton, Mines-II, NLC and prays for recovery of a sum of 8.96,000/- from the petitioners with interest as well as restraining the defendants 3 and 4 therein from disbursing the terminal benefits due and payable to their father. Subsequently, the suit was transferred to the file of Sub-Court, Neyveli and renumbered as O.s.No.62/2016 and the 4th defendant, namely, Deputy General Manager, Mines-II, NLC has filed a counter admitting the fact of the nomination of the petitioners as legal heirs and also took a stand that the gratuity and Provident Fund amount statutory payment and as per the provisions of Civil Procedure Code, Payment of Gratuity Act and employees Provident Fund and Miscellaneous Provisions act, the Gratuity and Provident Fund amount are free from any court attachment and as such the prayer of injunction sought for by the petitioner is unsustainable. The grievance expressed by the petitioner is that despite the stand taken by the 3rd and 4th defendants/officials of the NLC in the above cited suit, rest of the terminal benefits have not been settled to them and in this regard, they have also submitted a joined representation dated 02.11.2016 to the 1st respondent and despite receipt and acknowledgment, no orders have been passed so far. Therefore, they are constrained to approach this Court by filing this writ petition.

3. Learned counsel for the petitioner would submit that in the absence of any interim order in the above cited suit and also in the light of the stand taken by the 4th defendant, there is no impediment on the part of the respondents to settle the rest of the retiral and terminal benefits and prays for appropriate orders.

4. Heard the submission of the learned counsel for the petitioners and also perused the materials placed on record.

5. Though the petitioners pray for a larger relief, this Court, in the light of the above facts and circumstances, without going into the merits of the claim projected by the petitioners, directs the 1st and 2nd respondents to consider the representation dated 02.11.2016, submitted by the

petitioners, in the light of the written statement filed by the 4th defendant in O.S.No.62/2016 on the file of the Court of Subordinate Court, Neyveli and pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioners. The writ petition is disposed of accordingly. No costs.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

vsi

To

1. The Chief General Manager,  
Mines-II, NLC Ltd.,  
Neyveli,  
Cuddalore District.
2. The Deputy General Manager/ Finance  
Account Section, Mines-II,  
NLC Ltd., Neyveli,  
Cuddalore District.

+1cc to M/s.R.Meenakshi, Advocate, S.R.No.13185(06.04.2017)

W.P.No.5181 of 2017

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