

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.8598/2017

K.Vijaya

... Petitioner

-Vs-

1. The Director of Handloom and Textiles,
2nd Floor, Kuralagam,
Chennai-600 108.
2. S.902, Chinnappampatti Handloom Weavers
Co-Operative Society, Chinnappampatti,
Rep.by its Secretary,
Salem District.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records relating to the order of rejection passed in Na.Ka.28424/2013/C2 dated 03.02.2016 on the file of the 1st respondent quash the same and direct the 1st respondent to pay monthly family pension to the petitioner from the date of death of her husband.

For Petitioner : Mr.S.Doraisamy

For R-1 : Mrs.T.Girija, GA

For R-2 : Mr.L.P.Shanmugasundaram

ORDER

This writ petition is filed to quash the impugned order passed by the first respondent and to direct the first respondent to pay monthly family pension to the petitioner from the date of the death of her husband.

2. According to the petitioner, the petitioner's husband R.Kannan was a member of the 2nd respondent Society since 1997. His membership number is 21 and he enrolled as a member on 01.03.2007 in the above Society under the scheme of Savings and security. Once a member became enrolled as a member in the scheme of Savings and Security, automatically his name will be enrolled in the Family Pension Scheme and Bunker Beema Yojana

Scheme. After the petitioner's husband death, the petitioner was paid under the Savings and Security Scheme, a sum of Rs.10,711/- (Rupees Ten Thousand Seven Hundred and Eleven Only) on 23.07.2015 and on the same day, the petitioner was also paid a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only) towards the Bungar Beema Yojana Scheme. However, the monthly pension of Rs.1000/- (Rupees One Thousand Only) was not paid to the petitioner. Therefore, she made a representation dated 23.10.2015 to the 1st respondent.

3.The learned counsel for the petitioner would further submit that without giving an opportunity, the first respondent has passed the impugned order on 03.02.2016. Therefore, the impugned order passed by the first respondent violates the principles of natural justice. Hence, the writ petition has been held to set aside the impugned order dt.03.02.2016 and to direct the 1st respondent to pay monthly family pension to the petitioner.

4.Per contra, the learned Government Pleader would submit that the petitioner has not mentioned in the representation that the petitioner had availed the benefit under the Bungar Beema Yojana Scheme and Savings and Security Scheme. The petitioner has produced these documents only before this Court and not before the authority concerned. Hence, the authority had passed orders on the basis of the representation made by the petitioner.

5. Heard Mr.S.Doraisamy, learned counsel appearing for the petitioner, Mrs.T.Girija, learned Government Advocate appearing for the first respondent and Mr.L.P.Shanmugasundaram, learned counsel appearing for the second respondent, and perused the materials on record.

6.The petitioner made a representation on 23.10.2015 to the first respondent to sanction Family Pension under the Family Pension Scheme to the petitioner. The first respondent has rejected the claim of the petitioner on the ground that the petitioner's husband is not a member under the Family Pension Scheme. The learned counsel for the petitioner has filed the documents in the typed set of the papers that the first respondent already sanctioned amounts under the Savings and Security Scheme and also under the Bungar Beema Yojana Scheme. The membership card of the petitioner's husband is also enclosed in the typed set of papers, however, these documents were not produced before the authorities along with the representation. Hence, the liberty shall be given to the petitioner to produce the necessary documents related documents before the authority to prove that the petitioner is entitled under the Family Pension Scheme as announced by the State Government. Therefore, in the facts and circumstances of the case, the impugned order passed by the first respondent

violates the principles of natural justice. Hence the impugned order is liable to be quashed.

7. Therefore, the impugned order dt.03.12.2016 passed by the first respondent is quashed and the matter is and remitted back to the first respondent to consider the petitioner's application afresh, after providing an opportunity to the petitioner to file all related documents, and pass appropriate orders, on merits, and in accordance with law as early as possible preferably within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above direction writ petition is disposed of. No costs.

Sd/-
Asst. Registrar (J)

/true copy/

Sub Asst. Registrar

KP

To

1. The Director of Handloom and Textiles,
2nd Floor, Kuralagam,
Chennai-600 108.
2. The Secretary
S.902, Chinnappampatti Handloom Weavers
Co-Operative Society, Chinnappampatti,
Salem District.

+1cc to Mr.S.Doraisamy, Advocate in sr.no.22886
+1cc to Mr.L.P.ShanmughaSundaram in sr.no.23115
+1cc to Government Pleader in sr.no.23267

W.P.No.8598/2017

RV(CO)
NR 21/06/2017

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