

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21457 of 2004

Mohanraj (minor) rep by father and
Natural Guardian Mr.M.Ramasamy

... Petitioner

Vs.

1. The Director of Local Fund and Audit,
Kuralagam, Chennai -108.
2. The Executive Officer,
Kalappanaickenpatti Town Panchayat,
Namakkal Taluk and District.
3. Pappayee
4. Poongodi
5. The Manager,
Life Insurance Corporation,
Namakkal Branch,
Namakkal.

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the first respondent in relation to O.M.No.POS.3/50881/2002 dated 26.09.2002 and quash the same and issue a consequential direction to the respondents to disburse the 1/3rd share in Death cum Retirement Gratuity of the deceased employee of the third respondent namely Kuppan and to grant 1/3rd share in other terminal benefits like Group Insurance Scheme, Computation of Pension, G.P.F, P.F., Encashment of earn leave available on the credit of deceased employee Thiru.Kuppan.

For Petitioner : Mr.R.Saseetharan

For Respondents : Mr.M.Elumalai,
Government Advocate for R1 & R2

O R D E R

The petitioner has filed this writ petition challenging the order dated 26.09.2002, wherein the first respondent rejected the claim of the petitioner for 1/3rd share in Death cum Retirement Gratuity.

2.The case of the petitioner is that he is the grand son of the deceased Kuppan. He filed an application to the Authority based on the decree obtained from the City Civil Court, wherein a representation was made to the authorities to disburse 1/3rd share of the payment of Death cum Retirement Gratuity and other benefits, as per nomination filed by the deceased grand father of the petitioner along with his wife and another daughter. The third respondent is petitioner's grand mother (maternal mother).

3.The petitioner made a representation to the second respondent on 19.09.2002 based on the Civil Court decree claiming 1/3rd share of the Death cum Retirement Gratuity amount and other benefits on account of the death of his grand father, as the deceased Kuppan had nominated the petitioner in his nomination in the third position i.e. seniority wise, the 3rd respondent was the first nominee, the fourth respondent was second in the seniority list and the petitioner was nominated in the third place to receive his service and terminal benefits. The first respondent rejected the claim quoting Rule 45 of the Tamil Nadu Pension Rules. The relevant portion of Rule 45 (5) of the Tamil Nadu Pension Rules, reads as follows:

- (5) For the purposes of this rule and rules 46, 47 and 48 family in relation to a Government servant means;
- (i) wife or wives, including judicially separated wife or wives in the case, of a male Government servant.
 - (ii) husband including judicially separated husband, in the case of a female Government servant.
 - (iii) sons including step-sons, adopted sons and born through illegitimate wife;
 - (iv) unmarried daughters including stepdaughters, adopted daughters and unmarried daughters born through illegitimate wife; and
 - (v) widowed daughters including step-daughters, adopted daughters and widowed daughters born through illegitimate wife.
 - (vi) father, including adoptive parents in the case of individuals whose personal law permits adoption.
 - (vii) mother, including adoptive parents in the case of individuals whose personal law permits adoption.
 - (viii) brothers below the age of eighteen years, including step brothers.
 - (ix) unmarried sisters and widowed sisters, including step sisters.

- (x) married daughters and
- (xi) children of pre-deceased son.

4. On perusal of the impugned order as well as Rule 45 (5) of the Tamil Nadu Pension Rules, it is clear that the grand son who was born through the daughter, was not included in the said relationship. Accordingly rejection order was passed by the authority need not be interfered with.

5. It is brought to the attention of this Court that 1/3rd share was not disbursed in favour of the third respondent, who is the wife of the deceased Kuppan. The first and second respondents are hereby directed to disburse the balance amount if any in Death cum Retirement Gratuity and other terminal benefits like Group Insurance Scheme, Computation of Pension, G.P.F, P.F., Encashment of earned leave available on the credit of deceased employee Thiru.Kuppan to the 3rd respondent within a period of six weeks from the date of receipt of a copy of this order. In case, the third respondent is not available, the same shall be paid to the fourth respondent.

6. Accordingly, this writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kas
To.

1. The Director of Local Fund and Audit,
Kuralagam, Chennai -108.
2. The Executive Officer,
Kalappanaickenpatti Town Panchayat,
Namakkal Taluk and District.

+1cc to Mr.R.Saseetharan, Advocate, S.R.No.69013
+1cc to the Government Pleader, S.R.No.69895

W.P.No. 21457 of 2004

GJII(CO)
CS/22/11/17