

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.3256 of 2016

J.Rukmani

...Petitioner

Vs.

- 1.The Secretary,
Bar Council of Tamil Nadu and Puducherry,
High Court Campus, Chennai-104.
- 2.The Secretary Trustee Committee,
Tamil Nadu Advocates' Welfare Fund,
Bar Council Buildings,
High Court Campus, Chennai-104.... Respondents

Prayer:-Writ petition is filed under Article 226 of the Constitution of India praying to issue writ of certiorarified mandamus to call for the records of the first respondent with respect to Appeal No.2/2015 filed by the petitioner under Section 21 of the Tamil Nadu Advocates' Welfare Fund Act, 1987, confirm the order passed by the 2nd respondent by its resolution No.175/2014 dated 19.12.2014 along with the resolution No.284/2015 dated 17.10.2015 of the first respondent, quash the same and consequently, direct them to pay the petitioner the death benefits due to the death of the husband of the petitioner viz., late S.Jambulingam, Advocates' Welfare Fund Act, 1987.

For Petitioner : Mr.S.Balasubramanian

For Respondents : Mr.S.Y.Masood for R1

ORDER

(Order of the Court was made by M.M.Sundresh,J.)

The petitioner is the wife of the deceased practising Lawyer viz., S.Jambulingam, who died on 28.09.2010. He was enrolled

as an Advocate on 21.01.1981. He made an application on 25.08.2010 for getting admitted into the Tamil Nadu Advocates' Welfare Fund. The application was placed before the Committee in the meeting held on 18.08.2011 and accordingly, he was admitted into the Welfare Fund. As he died even prior to the admission made, the petitioner, who is the wife, made an application seeking benefit under the Tamil Nadu Advocates' Welfare Fund. The request made was rejected on the ground that there appears to be some discrepancy in the application made on 25.08.2010 by the deceased Lawyer and the one produced by the petitioner. Challenging the same, the present writ petition has been filed.

2. The learned counsel appearing for the petitioner submits that the President of Bar Association, Musiri, has given a letter stating that the deceased husband of the petitioner is a practising Advocate for the past 10 years prior to his demise. As there is no dispute on the factum of the death coupled with the application made prior to it, the order impugned will have to be set aside and consequently, the relief will have to be granted.

3. The learned counsel appearing for the first respondent submits that the request was rejected on the ground that there appears to be some discrepancy between the signature appears in the application made by the petitioner's deceased husband and the one produced by the petitioner. Hence, the writ petition has to be dismissed.

4. The fact that the deceased husband of the petitioner is the practising Lawyer is not in dispute. The incidental fact that he did make an application on 25.08.2010 is also not in dispute. It is not the case of the first respondent that such of those members, who got admitted, but died prior to admission, are not entitled for the benefit of the scheme. Therefore, the only point to be considered is as to whether the alleged discrepancy as found with respect to the signature in the application made and the one produced by the petitioner would disentitle her from getting the relief. When once the member is admitted to the fund, the consequence will have to be followed. A mere comparison of the signature subsequently cannot be a ground to deny the entitlement. As discussed earlier, there is no dispute on the application made and the petitioner's husband being the practising Lawyer at the Musiri Bar. The objection, which resulted in rejection is nothing but technical. After all, the object of the scheme is give hope to the members of the family of the Lawyer, who died in harness. In such view of the matter, we are of the considered view that the rationale behind the scheme can only be served by allowing the petitioner, who is the widow of the practising Lawyer, to get the benefits after getting admission. In such view of the matter, the orders

impugned are set aside and the writ petition stands allowed. Consequently, the respondents are directed to give the relief under the Tamil Nadu Advocates' Welfare Fund to the petitioner within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1.The Secretary,
Bar Council of Tamil Nadu and Puducherry,
High Court Campus, Chennai-104.

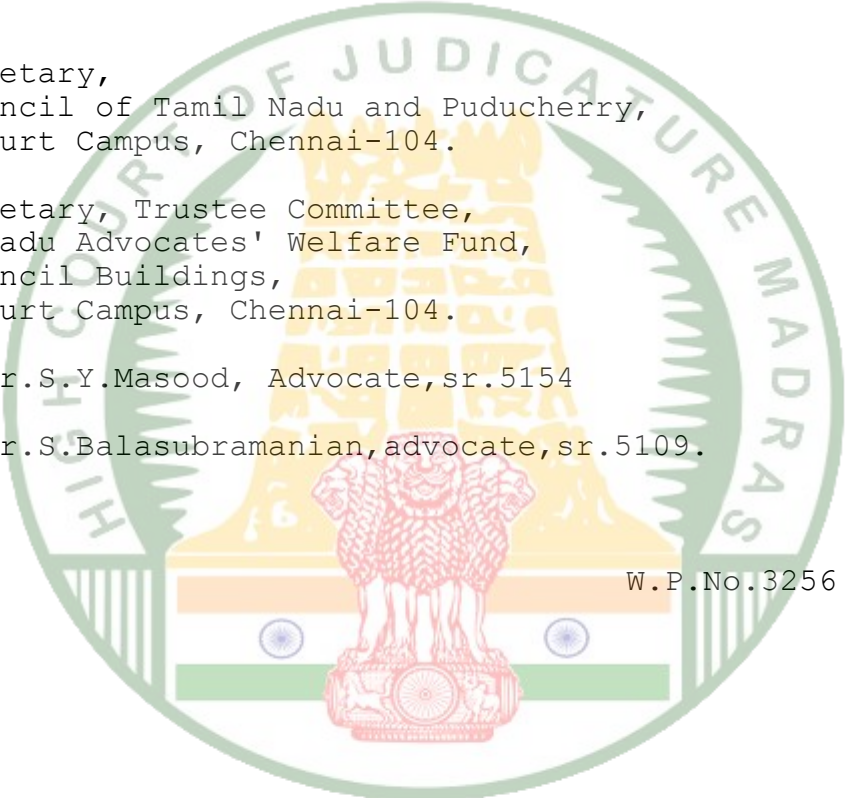
2.The Secretary, Trustee Committee,
Tamil Nadu Advocates' Welfare Fund,
Bar Council Buildings,
High Court Campus, Chennai-104.

+1 cc to Mr.S.Y.Masood, Advocate,sr.5154

+1 cc to Mr.S.Balasubramanian,advocate,sr.5109.

ssi(co)
krd 23/2

W.P.No.3256 of 2016



सत्यमेव जयते

WEB COPY