

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.44587/2016 & WMP.No.38400/2016

M.Narashimman

..Petitioner

Vs

1.The Divisional Engineer,
Highways, NABARD & Rural
Roads, Dharmapuri 636701.

2.The Principal Accountant General
[A&E], Tamil Nadu, Teynampet,
Chennai 600 018.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the respondents to calculate and fix the pensionary benefits of the deceased Government employee Mr.A.Munusamy, employed as Office Assistant, [H], Rural Roads, Highways Department, Palacode Section, Dharmapuri District and to pay the same to the petitioner who was appointed as nominee on 12.05.1993 by the deceased Government employee with interest at the rate of 12% per annum.

For Petitioner : Mr.Dhanaram

For R1 : Mr.P.Sanjay Gandhi, AGP

For R2 : Mr.V.Vijayshankar

ORDER

By consent, the writ petition is taken up for final disposal. Mr.P.Sanjay Gandhi, learned Additional Government Pleader accepts notice on behalf of the 1st respondent and Mr.V.Vijayshankar, learned Standing Counsel accepts notice on behalf of the 2nd respondent.

2 The petitioner would state that one Munusamy, S/o.Ambuliappan, was appointed as Office Assistant on 26.10.1983 in the services of Rural Roads Section, Palacode and he has successfully completed his probation on 25.10.1984. It is the claim of the petitioner that after completion of 10

years, Munusamy ought to have been give elevation to other post, but it was not given. In the meanwhile, the said Munusamy died in harness on 15.05.2005 before attaining the age of superannuation on 31.10.2006. The petitioner would further aver that the deceased employee, namely, A.Munusamy, is the unmarried brother-in-law of the petitioner and taking note of the close relationship, the petitioner was adopted by A.Munusamy through a registered Adoption Deed dated 04.03.1999 bearing Doc.No.16/1999 on the file of the Sub Registrar, Palacode and according to him, from the date of adoption, his relationship with the deceased employee is that of his son. The petitioner would further claim that in the Service Register also, A.Munusamy, has nominated the petitioner as the nominee in Form-II, for the purpose of receiving the benefits under the Tamil Nadu Family Benefit Funds. The petitioner, after the demise of his adopted father, submitted an application dated 08.04.2008 for settlement of the Death-cum-Retirement Gratuity and other ancillary benefits. The Chief Engineer [N], NABARD and Village Roads, Highways Department, Chennai-32, has rejected the said request, vide his proceedings dated 28.05.2008 on the ground that in the Adoption Deed, the deceased employee, has not affixed his signature and challenging the same, WP.No.44586/2016 has been filed along with this writ petition. The grievance now expressed by the petitioner is that despite the receipt of the representation followed by the reminder dated 21.06.2016, the benefits due and payable to the petitioner, as a nominee, has not been paid and therefore, the petitioner came forward to file the present writ petition.

3 The learned counsel for the petitioner would submit that challenging the order of rejection dated 28.05.2008, passed by the Chief Engineer [N], NABARD and Village Roads, Highways Department, WP.No.44586/2016 has been filed and notice of motion has been ordered and in the light of the nomination in Form-II, there cannot be any impediment on the part of the 1st respondent to confer the DCRG benefits to the petitioner and prays for appropriate orders.

4 Per contra, Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the 1st respondent would submit that in the light of the order of rejection dated 28.05.2008, the petitioner, as a matter of right, cannot claim settlement of DCRG benefits and prays for dismissal of this writ petition.

5 This Court heard the submissions of Mr.V.Vijayshankar, learned Standing Counsel appearing for the 2nd respondent.

6 Though the petitioner has prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in his representation or in this writ petition, directs the 1st respondent to consider and dispose of the petitioner's representation dated 08.04.2008 as well as the reminder representation dated 21.01.2016 on merits and in accordance with law and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

7 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

AP

To

1.The Divisional Engineer,
Highways, NABARD & Rural
Roads, Dharmapuri 636701.

2.The Principal Accountant General
[A&E], Tamil Nadu, Teynampet,
Chennai 600 018.

+1cc to M/s.G.Ethirajulu, Advocate sr.498

+1cc to The Government Pleader sr.791.

W.P.No.44587/2016

ala(co)
ss(27/01/2017)

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