



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.12.2017

PRONOUNCED ON : 22.12.2017

WEB COPY

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P (MD) No.15364 of 2014

Vasudevan

... Petitioner

vs.

1. The General Manager,
BSNL, Contonment,
Tiruchirappalli.
2. The Senior Superintendent,
Telegraph Traffic,
BSNL, Trichy Telecom District,
Contonment,
Tiruchirappalli - 1.

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to pay one-third share of the death cum gratuity benefit of the petitioner's deceased wife Mala.

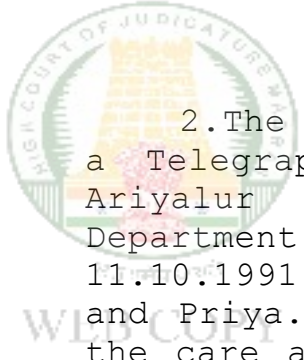
For Petitioner : Mr.S.Muthukrishnan

For R - 1 : No appearance

For R - 2 : Mr.G.Rajaraman

ORDER

This Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to pay one-third share of the death cum gratuity benefit of the petitioner's deceased wife Mala.



2.The case of the petitioner is that his wife was employed as a Telegraph Senior Assistant in the respondent Department at Ariyalur Telegraph Office and she served in the Telegraph Department for more than 10 years. Due to her illness, she died on 11.10.1991. The petitioner had two daughters, by name, Sri Vidhya and Priya. After the death of his wife, the children were under the care and custody of one Sadagopan as a guardian. Since there was a misunderstanding between the said Sadagopan and the petitioner in receiving the Death-cum-gratuity benefits of his wife, the petitioner's daughters filed a civil suit through their guardian against the petitioner and the second respondent in O.S.No.735 of 1991 on the file of the Sub Court, Tiruchirappalli, claiming two-third share for the Death-cum-gratuity benefit of his wife. As per the Hindu Succession Act, the petitioner and his daughters are having equal share from the death benefit payable to the legal heirs of his wife. The said suit was decreed on 21.06.1993 and the petitioner was entitled to receive one-third share. In view of the Judgment passed in O.S.No.735 of 1991, the petitioners's daughters were paid their respective shares by the respondents, but the petitioner share was not paid to him. Hence, the petitioner has made several representations to the respondents to disburse his one-third share of the monitory benefits of his wife. The second respondent, in his letter, dated 26.07.1994, stated that the petitioner was entitled to receive one-third share of the death-cum-gratuity benefits and directed the petitioner to submit Form 12. Accordingly, the petitioner submitted Form 12 to the second respondent. Since the petitioner has not received any reply from the second respondent, he has sent another representation to the second respondent on 30.10.2013 and the same was acknowledged by the second respondent. So far no action has been taken by the second respondent, the petitioner has filed the present Writ Petition.

3.The learned counsel for the second respondent submitted that now the Telegraph Office itself has been closed and no more Telegraph Offices are running in the Country itself. Hence, he does not have any instruction regarding the issue.

4.From the perusal of the materials available on record, it is seen from the letters, dated 04.05.1995, 23.03.2000 and 06.07.2000 issued by the second respondent that in accordance with Rule 80-A of C.C.S (Pension) Rules, 1972, the petitioner was accorded for one-third payment of death-cum-gratuity benefit of his wife.

5.Considering the facts and circumstances of the case and also considering the submission made by the second respondent that the Telegraph Office itself has been closed, this Court directs the General Manager, BSNL to consider the representation of the petitioner, dated 30.10.2013, and pass appropriate orders, on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.



6. With the above direction, this Writ Petition is disposed of.
No costs.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The General Manager,
BSNL, Contonment,
Tiruchirappalli.
2. The Senior Superintendent,
Telegraph Traffic,
BSNL, Trichy Telecom District,
Contonment,
Tiruchirappalli - 1.

+1 cc to M/S.S.Muthu Krishnan, Advocate in SR.No.94167

+1 cc to M/S.G.Rajaraman, Advocate in SR.No.94211

**Order made in
W.P (MD) No.15364 of 2014
22.12.2017**

PK/KKR/SAR-1/05.01.2018 : 3P/5C