



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. (MD) No.67 of 2017

and

C.M.P. (MD) No.550 of 2017

1.Rosammal

2.T.Sree Gokul

.. Appellants

Vs.

1.R.Packia Selvi

2.The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
31, Kamarajar Salari, Chennai - 5.

3.The Joint Chief Engineer,
TWAD Board, Head Office,
Chennai - 5.

4.The Chief Engineer,
TWAD Board, Ganesh Nagar,
Madurai.

5.The Superintending Engineer,
TWAD Board, Tirunelveli,
Kanyakumari Circle.

6.The Executive Engineer,
TWAD Board, RWS Division
Nagercoil, Kanyakumari District.

... Respondents

Prayer: Writ Appeal filed under clause 15 of the Letters Patent, to set aside the order dated 26.09.2016 passed in W.P.(MD) No.18353 of 2016 on the file of this Court.

Prayer in WP(MD). 18353/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to grant the petitioner all the monetary and pensionary benefits due to the petitioners husband with interest the rate of 12% per annum for the delayed payment.

For Appellants : Mr.D.Nallathambi

For Respondents : Mr.P.Saravanakumar for

Mr.M.Veilkaniraju for R1

Ms.Porkodi Karnan for R2, 4 to 6

No Appearance for R3

**JUDGMENT**

[Judgment of the Court was made by **G.R.SWAMINATHAN, J.**]

This Writ Appeal is directed against the order dated 26.09.2016, made in W.P(MD) No. 18353 of 2016 filed by the first respondent herein.

2.The first respondent herein contended that her husband Mr.Thiyagarajan was employed in Tamil Nau Water Supply and Drainage Board as Assistant Executive Engineer and that he died on 17.07.2000, while in service. She claimed in the affidavit filed in support of the writ petition that she obtained succession certificate in her favour by filing S.O.P.No.1 of 2013, notwithstanding the order dated 06.02.2013 in S.O.P.No.1 of 2013. The authorities did not consider her request for disbursing the monetary and pensionary benefits. Hence she filed the said Writ Petition.

3.When the writ petition was taken up for hearing, the standing counsel for TWAD Board agreed to disburse the retirement benefits of the petitioner's husband in 12 equal monthly instalments. The said submission was recorded and direction was given for disbursement in favour of the writ petitioner Packiaselvi. Aggrieved by the same, this intra Court appeal has been filed by the appellants herein.

4.The appellants have pointed out that the first appellant was the mother of the deceased, while the second appellant was the legitimate son. In any event, both the mother as well as the legitimate son were entitled to receive the employment benefits of the deceased. The writ petitioner no doubt obtained succession certificate in her favour in S.O.P.No.1 of 2013 on the file of the Principal Sub Court, Nagercoil by order dated 06.02.2013. But the said order was obtained behind the back of the appellants. Therefore the appellants filed I.A. No.24 of 2015 and the earlier order granting succession certificate in favour of the writ petitioner was set aside on 21.09.2016.

5.The writ petitioner had clearly suppressed the fact that the succession certificate issued in her favour was revoked. We strongly deprecate the conduct of the first respondent / writ petitioner. The Writ Petitioner had deliberately misled the learned Single Judge.

6.A person approaching the Writ Court ought to come with clean hands. In this case, the first respondent herein had clearly suppressed materials facts. On this sole ground she has to be not suited. Since the order in Writ Petition in W.P.(MD) No.18353 of 2016 is based on a succession certificate which was subsequently revoked, the very basis of the Writ order goes. The order dated 26.09.2016 made in W.P.(MD) No.18353 of 2016 is set aside. The Writ



Appeal stands allowed. It is needless to say that the TWAD Board shall disburse the employment benefits of the deceased Mr.Thiyagarajan based on the outcome of the Civil litigation that is now pending between the appellants and the first respondent.

7.The writ appeal is allowed with the above observations. No costs. Consequently connected Miscellaneous Petition is Closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

+1cc to Mr.D.Nallathambi Advocate in SR. NO.67337
+1cc to POLAX LEGAL SOLUTIONS Advocate in SR. No.67519
+1cc to Mr.M.VEILKANIRAJU Advocate in SR. No.67399

SKM

JS/KP/SAR.1/22.08.2017/3P-4C

ORDER MADE IN
W.A. (MD) No.67 of 2017
and
C.M.P. (MD) No.550 of 2017
24.07.2017