



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2017

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYANW.P.(MD)No.5258 of 2014andM.P.(MD)Nos.1, 2 and 3 of 2014

N.Fathima

... Petitioner

Vs.

1.The Deputy Controller of
Communication Accounts,
Office of Principal Controller
of Communication Accounts,
Government of India,
Ministry of Communication and
Information Technology,
No.6, Ethiraj Salai, Chennai 600 008.

2.The Manager,
Indian Bank,
Madurai P.B.No.25,
100/101 East Avani Moola Street,
Madurai.

3.S.D.Asia Beevi,

4.V.N.Jasmine

.. Respondents

PRAYER:- Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to impugned order made in DOT/CCA/TN/PEN/IDA/FP/4976 dated 27.04.2012 passed by the first respondent and quash the same and consequently direct the first and second respondents to credit the sum of Rs.68,914 to the account of the petitioner bearing Account No.718122957 in the second respondent bank.

For Petitioner	: Mr.D.Sadiq Raja
For R1	: Mr.G.Rajaraman Standing Counsel for Central Government
For R2	: No appearance
For R3 & R4	: Mr.C.Venkatesh Kumar For Ajmal Associates

O R D E R

The third respondent, on behalf of her and on behalf of fourth respondent, who was then a minor, in earlier round of litigation, has filed a Writ Petition in W.P.(MD)No.247 of 2009, wherein she has sought for maintenance and directing the first respondent to pay 50% of the family pension to them, being the mother and minor daughter of the deceased namely., S.D.V.Newton, along with the arrears thereon by considering her representation dated 12.10.2008 within the time period.

2.The brief history of the case in W.P.(MD) No.247 of 2009, was that the first petitioner (third respondent herein) was the mother of the deceased namely., S.D.V.Newton, who was working as Sub-Divisional Engineer, B.S.N.L., Telecom Officer, Madurai, died due to heart attack on 10.10.2006 and he left behind his wife, a daughter, a son and widowed mother as his legal heirs. The second respondent (petitioner herein) being the wife of the deceased received all the terminal benefits and family pension of Rs.12,500/- was issued to her. There were certain allegations against the wife / second respondent therein and therefore, dispute arose. Hence, the widowed mother approached this Court to segregate 50% of the family pension amount and pay to the widowed mother since she had taken care of the minor girl child and the minor boy was taken care by the wife of the deceased. .

3.The first respondent therein had filed a counter stating that the wife is only entitled to get 100% of the family pension till she remarries and as such, there is no provision in the Rule to pay 50% of the family pension to other legal heirs. The learned counsel for the first respondent has produced the CCS (Pension) Rules wherein 'Family' for family pension has been categorized as follows:

Category-I:

(a) Widow or widower up to the date of death or re-marriage, whichever is earlier,

(b) Son/daughter (including widowed daughter), up to the date of his/her marriage/re-marriage or till the date he/she starts earning or till the age of 25 years, whichever is the earliest.

Category-II:

(c) Unmarried/Widowed/Divorced daughter, not covered by category I above, up to the date of marriage/re-marriage or till the date she starts earning or up to the date of death, whichever is earliest.

(d) Parents who were wholly dependent on the Government Servant when he/she was alive provided the deceased employee had left behind neither a widow nor a child.

<https://hcservices.ecourts.gov.in/hcservices/> Family pension to dependent parent unmarried/divorced/widowed daughter will continue till the date of death.

Grant
response

DOT/C&A/TN/PEN/IDA/FP/4976. The said order reads as follows:

BSNL, Chennai (Director TI) 600007 - reg.

till further order from this office.

below:-

Revision of Family Pension in respect of Smt Fatima W/o
Late S.D.V Newton

<https://hcservices.ecourts.gov.in/hcservices/>



Normal Rate	4373	2187	11/10/2016 onwards till her remarriage or death which ever is earlier
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This may be incorporated in both halves of PPO taking into account this as authority and intimate compliance. This supersedes the old authority issued vide this office letter of even reference dated 22/01/2007.

Since this has been issued due to the judgment of the Hon'ble High Court the pension revision shall be implemented with immediate effect and the implementation details may be intimated to this office.

4.Challenging the same, the wife of the deceased has filed the present Writ Petition to quash the impugned order of the first respondent and consequently to direct the respondents 1 and 2 to credit a sum of Rs.68,914/- to the petitioner's account bearing Account No.718122957 in the second respondent bank.

5.The learned counsel for the petitioner would submit that the petitioner is taking care of the son and also treated her daughter equally.

6.Heard both sides and perused the materials available on record.

7.This Court found that the fourth respondent herein is the daughter of the deceased, who has now completed her studies and become major and she married to some person and taken care of by her Grand Mother, who is in bedridden. The son and wife of the deceased are living together in a separate residence. Since the daughter appeared before this Court and deposed that she is qualified as nurse and her grandmother took care of her by getting loan amount and she had to repay since her grandmother fell in sick.

8.After hearing both sides, on equity, this Court has advised the parties to enter into a settlement and as per the settlement, it is accepted that from 27.04.2012 till December 2017, 50% amount of the family pension should be paid to the daughter of the deceased namely, V.N.Jasmine and from January 2018 onwards the full pension should be credited to the petitioner's account bearing Account No.718122957 in the second respondent bank.

9.With the above terms of settlement, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/



To

WEB COPY
The Deputy Controller of
Communication Accounts,
Office of Principal Controller
of Communication Accounts,
Government of India,
Ministry of Communication and Information Technology,
No.6, Ethiraj Salai,
Chennai 600 008.

+One cc to Mr.D.Sadiq Raja, Advocate, SR.No.93632

+One cc to M/s.Ajmal Associates, Advocate, SR.No.93275

+One cc to Mr.G.Rajaraman, Advocate, SR.No.92984

ia

RL/5C/5P/KKR/SAR4/5/4/2018

W.P. (MD) No.5258 of 2014
and
M.P. (MD) Nos.1, 2 and 3 of 2014

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