



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P(MD)No.1243 of 2017

and

W.M.P(MD)No.1041 of 2017

S.Antonypitchai

... Petitioner

vs.

1)The Superintending Engineer,
O/o. Superintending Engineer,
Electricity Distribution Circle,
Tamilnadu Electricity Board,
Thoothukudi District.

2)Soundararajan

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the first respondent to include the petitioner name and photo in the second respondent's Family Pension and Death-cum-Retirement Gratuity Book and to allot the share in the special provident fund to the petitioner and to stop the second respondent's retirement benefits till the petitioner realize the maintenance.

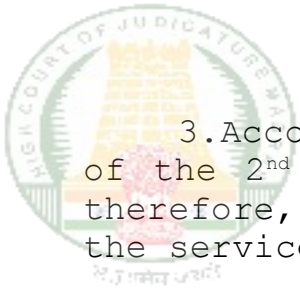
For Petitioner : Mr.A.Solomon

For Respondents : Mr.A.U.Ramanathan

ORDER

The prayer in this writ petition is for issuance of a Writ of Mandamus, to direct the first respondent to include the petitioner name and photo in the second respondent's Family Pension and Death-cum-Retirement Gratuity Book and to allot share in the Special Provident Fund to the petitioner and to stop the second respondent's retirement benefits till the petitioner receives maintenance.

2.The petitioner submits that she married the 2nd respondent in 1984 and out of the wedlock, she gave birth to two children, son and daughter. Already, there is a family dispute between the petitioner and the 2nd respondent and maintenance case is also pending. According to the petitioner, the 2nd respondent is going to retire in February 2017 and he is getting approximately Rs.95,000/- per month and that no pie has been paid to the petitioner, further, her name also has not been included in the service records of the 2nd respondent maintained by the 1st respondent board.



3. According to the petitioner, she is one of the legal heirs of the 2nd respondent and that she is entitled to the relief and therefore, the 1st respondent ought to have included her name in the service records of the 2nd respondent.

4. Admittedly, divorce petition is pending apart from the maintenance case, which has not been disposed of. The contention of the petitioner that the 2nd respondent is living with another person cannot be gone into in this writ petition and the further contention that she is the legal heir of the 2nd respondent does not arise. As long as the 2nd respondent is alive, the question of legal heir does not arise. There cannot be any seniority based on age in case of death. Neither Chithraguptha is maintaining seniority list nor Yama is going to follow, if it is maintained. If the petitioner has got any grievance with regard to her claim, she has to work out her remedy in the Civil Court, which she has already approached by means of maintenance petition.

5. No one can compel a person to include a person in the family list, even if the said person is not living with any other woman, other than the wife. Probably, due to the dispute between the petitioner and the 2nd respondent, who are husband and wife in this case, the 2nd respondent is not inclined to include the name of the petitioner in his service records and it appears that he does not want to give any of his benefits to the petitioner on account of the bitter experience that could have been faced by the 2nd respondent while living with the petitioner. If the contention of the legal heir is accepted, then the petitioner may also knock at the doors of this Court to probate the Will, if any written by her husband, during his life time. Far-fetched arguments cannot be accepted by this Court.

Hence, this Writ Petition is dismissed. No costs. Consequently, W.M.P(MD)No.1041 of 2017 is closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub-Assistant Registrar

To
The Superintending Engineer, O/o. Superintending Engineer,
Electricity Distribution Circle,
Tamilnadu Electricity Board, Thoothukudi District.
+One cc to Mr.A.Solomon, Advocate, SR.No.4691

nbi

RL/3C/2P/BS/9.3.2017

W.P(MD)No.1243 of 2017

25.01.2017