



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2017

CORAM :

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P(MD)No.1426 of 2017andWMP(MD)No.1173 of 2017

A.R.Thilagavathi

... Petitioner

vs.

1)The Commissioner,
Directorate of Technical Education,
Guindy,
Chennai-600 025.

2)The Principal,
Tamil Nadu Polytechnic,
T.P.K. Road,
Madurai-625 011.

3)The Accountant General (A&E),
361, Anna Salai,
Teynampettai,
Chennai-600 006.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to disburse the terminal benefits in respect of the deceased husband of the petitioner viz., 2/3 share of DCRG amount, Family Pension, Family Security Fund, General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Unearned on Private Affairs at the credit of the petitioner's deceased husband on the date of death along with interest at 18% per annum from 30.06.1999 (i.e.,) the date of death of petitioner's husband and to till date of settlement of the above said benefits to the petitioner within a time limit to be fixed by this Hon'ble Court.

For Petitioner : Mr.T.Sakthi Kumkaran for
M/s.Victory Associates



For R3

: Mr.P.Gunasekaran

ORDER

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The prayer in this writ petition is for issuance of a Writ of Mandamus, directing the respondents to disburse the terminal benefits in respect of the deceased husband of the petitioner viz., 2/3 share of DCRG amount, Family Pension, Family Security Fund, General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Unearned on Private Affairs at the credit of the petitioner's deceased husband on the date of death along with interest at 18% per annum from 30.06.1999 (i.e.,) the date of death of petitioner's husband to till date of settlement of the above said benefits to the petitioner within a time limit to be fixed by this Court.

2.The petitioner is seeking terminal benefits of her deceased husband to the extent of 2/3rd of share in DCRG, family pension and other benefits. He further submitted that claiming 50% of the share in DCRG and other benefits, the petitioner's mother-in-law filed SOP.No.24/2000 before the Principal Sub Court, Madurai, which vide judgment dated 12.08.2005 directed that the mother-in-law is entitled to 1/3rd of the share in DCRG and other benefits of the petitioner's husband. According to the petitioner, the 2nd respondent has misconstrued the order as if the Sub Court has directed that the entire amount to be given to the mother-in-law of the petitioner and the judgment made in SOP.No.24/2000 dated 12.08.2005 has not been the subject matter of any appeal proceedings and that it has become final.

3.The learned counsel appearing for the 3rd respondent/Accountant General submits that the mother of the deceased has no right to claim any share in the DCRG of the petitioner's husband or in the family pension and if any amount due under the Provident Fund head, the petitioner's mother-in-law would be entitled to equal share. The Principal Sub Court, Madurai, has granted the relief of 1/3rd of the share in DCRG and other benefits to the mother-in-law of the petitioner.

4.Taking note of the submission of the learned counsel for the 3rd respondent and that no proposal has been submitted by the other respondents to the 3rd respondent, to enable them to disburse the benefits due to the legal heirs of the deceased namely, the petitioner, her child and mother-in-law, even though the mother-in-law is not entitled to any share in DCRG and family pension of



the petitioner's husband taking note of the gesture shown by the petitioner, the respondents 1 and 2 are directed to send proposal to the 3rd respondent to enable the 3rd respondent to process the application so that the amount could be disbursed to the petitioner, her child and mother-in-law of the petitioner in terms of the prayer sought for by the petitioner in this petition and the judgment and decree made in SOP.No.24/2000 dated 12.08.2005. The respondents 1 and 2 are directed to forward the proposal within a period of one month from the date of receipt of a copy of this order and on receipt of such proposal, the 3rd respondent is directed to pass orders disbursing 2/3rd of DCRG and family pension to the petitioner and her child and the remaining 1/3rd may be directly sent to the mother of the deceased by way of RTGS, within one month from the date of receipt of the proposal.

5.At this juncture, Mr.T.Sakthikumaran, learned counsel for the petitioner brought to the notice of this Court, a communication addressed to the petitioner dated 08.02.2017 wherein, the 2nd respondent has demanded the legal heirship certificate issued by the Court. The legal heirship certificate will be issued with regard to Class-I heir by the Tahsildar which has been produced by the petitioner and copy of the same is enclosed in the typed set of papers, in which, the name of not only the petitioner, but also the name of the mother-in-law is mentioned. Hence, the respondents 1 and 2 are directed to take into account the legal heirship certificate issued by the Tahsildar dated July 1999 and forward the proposal in order to enable the 3rd respondent to pass appropriate orders within the time stipulated supra. It is made clear that in case of demise of the mother-in-law during the life time of the petitioner and her child, the 1/3rd share payable to her, shall automatically be paid to the petitioner and not to any other legal heirs of the mother-in-law.

With the above direction, this Writ Petition is disposed of. No costs. Consequently, WMP(MD)No.1173 of 2017 is closed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1)The Commissioner,
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Guindy, Chennai-600 025.



2) The Principal,
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3) The Accountant General (A&E),
361, Anna Salai,
Teynampettai,
Chennai-600 006.

+1 cc to M/S.VICTORY ASSOCIATES, SR.NO.8130

+1 cc to Mr.P.GUNASEKARAN, Advocate SR.No.8481

W.P(MD) No.1426 of 2017
14.02.2017

SMA/JM/24.02.2017:4P/6C