

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.11.2018

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.36030 of 2015

S. Prabhavathi

.. Petitioner

Vs.

The Chennai Metro Water Supply and
Sewage Board,
Rep. By its Managing Director,
No.1, Pumping Station Road,
Chintadiripet, Chennai 02.

... Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to consider the representation made by the petitioner date 10.08.2015 and thereby release the remaining 50% of Family Pension together with all the arrears due to the petitioner as per the order passed in Application No.4983/2002 in O.P.No.139/1996 dated 09.12.2002.

For Petitioner : Mr.N.Vanaraj

For Respondent : No appearance

O R D E R

The Writ Petition is filed by the petitioner seeking a direction to the respondent/ Chennai Metro Water Supply and Sewage Board, to consider the representation of the petitioner dated 10.08.2015 and release the 50% of the remaining Family Pension together with arrears based on the order passed in O.P.No.139 of 1996.

2. It is submitted that the petitioner's husband, who served in the respondent Board, died on 25.03.1995. She was not given family pension though Pension Payment order was passed in her favour, and she was asked to produce Succession Certificate. Hence, she filed OP No.139 of 1996. Based on the order of this court dated 09.12.2002 in A.No.4983 of 2002 in OP No.139 of 1996, directing the respondent to pay the monthly family pension of her husband Sundaresan, from April 1995 to the petitioner, the respondent had passed order dated 04.02.2003 and released

the family pension with arrears. But in the said order, issued by the respondent, only 50% of the arrears of pension was allowed and the remaining 50% was withheld. It is stated that only if there is an order of the court for the payment of the remaining 50%, the same would be released in favour of the petitioner. Hence, the Writ Petition has been filed by the petitioner seeking for Mandamus.

3. The respondent has filed the counter affidavit stating that only 50% of the family pension from 26.03.1995 till date has been paid to the petitioner. The remaining 50% is lying in the Board, as the respondent was not sure that Tmt.Bagyam and Aruna had filed separate application before the Court for claiming legal heirship. Though, the said Aruna had claimed to be a wife of the deceased Sundaresan, till today no steps have to be taken by them to produce any legal heir Certificate. In fact in para 14, the respondent has stated that if this Court directs the respondent to pay the full family pension to Tmt.Prabhavathi, the petitioner, the Board is ready to settle the remaining 50% of the family pension from 26.03.1995. It is the fact that the case is pending in this regard and as the said Bagyam and Aruna, claiming to be the heirs of the deceased Sundaresan, have not taken any steps till today, the petitioner can be granted remaining 50% of the pension by the respondent Board.

4. It is also relevant to note that the petitioner has not made the said rival claimant as the parties herein. The learned counsel said that they were parties before this Court in OP No.139 of 1996 but they had not appeared before this Court. The amount due to the petitioner is still lying, before the Board and the Board has also not objected for releasing the same in favour of the petitioner.

5. Accordingly, the Writ Petition is ordered as prayed for, directing the Board to release 50% of family pension detained by them with all the arrears to the petitioner within a period of six weeks. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jv

To

The Managing Director,
The Chennai Metro Water Supply and
Sewage Board,
No.1, Pumping Station Road,
Chintadiripet, Chennai 02.

+1cc to Mr.N.Ramesh, Advocate Sr.81902

+1cc to Mr.N.Vanaraj, Advocate Sr.80594

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