

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.A.No.674/2018 and
CMP.No.6477 of 2018

1. The Director of Treasuries and Accounts,
Panagal Buildings, Saidapet,
Chennai-15.
2. The Treasury Officer,
District Treasury,
Coimbatore-641 018. ... Appellants

Vs

M.Saraswathi ... Respondent

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 08.02.2016 made in W.P.No.4652 of 2016 by a learned Single Judge.

Petition Under Article 226 of the Constitution of India, praying for to issue of a writ of Mandamus directing the respondents to sanction and settle the family pension other retiral benefits including the compassionate appointments within a reasonable time fixed by this Honourable Court.

For Appellants :: Mr.P.S.Siva Shanmuga Sundaram,
Special Government Pleader

For Respondent :: Mr.R.Krishnamoorthy

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 08.02.2016 made in W.P.No.4652 of 2016 by a learned Single Judge.

2. The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents therein to sanction and settle the family pension and other retiral benefits including the compassionate appointment to the petitioner within a stipulated time.

3. After hearing both sides, the learned Single Judge of this Court has held as follows:

'3. But this court is inclined to grant only four weeks time to the respondents to pass final orders. Accordingly, the writ petition is disposed of with a direction to the respondents to disburse the entire terminal and retiral benefits of the petitioner's husband to the petitioner within a period of four weeks from the date of receipt of a copy of this Order. No costs.'

Aggrieved over the same, the respondents are before this Court with this Writ Appeal.

4. Learned Special Government Pleader appearing for the appellants submitted that the respondent's husband Mr.N.Mahalingam, while serving as Junior Assistant in the Department of Treasuries and Accounts, was not heard for number of years. Therefore, when the respondent approached the 2nd appellant seeking her husband's terminal benefits including the service benefits, she was informed that the same would be sanctioned only on production of the death certificate and legal heir certificate. Thereafter, the respondent herein approached the District Munsif-cum-Judicial Magistrate, Valparai and obtained a judgment and decree in O.S.No.41 of 2010 dated 8.7.2011 stating that the petitioner's husband was deemed to have been dead only for the limited purpose of declaring the plaintiffs therein as legal heirs of the said N.Mahalingam. On that basis, the respondent has approached the 2nd appellant to sanction the terminal benefits including the family pension and the proposal sent on the same is still pending. The learned Special Government Pleader further submitted that without producing any document for verification to substantiate her claim, the claim of the respondent cannot be considered and accordingly, the operative portion of the learned Single Judge order has to be modified.

5. Learned Counsel for the respondent submitted that the respondent has already approached the Civil Court and filed a suit for declaration and obtained a judgment and decree in her favour and that document itself is sufficient to prove the claim of the respondent.

6. A perusal of the judgment and decree in O.S.No.41/2010 dated 8.7.2011 on the file of the District Munsif Court shows that there is no specific declaration as to the civil death of the husband of the respondent and it discloses that the respondent herein and two others are the legal heirs of N.Mahlingam, husband of the respondent herein. Therefore, the matter needs consideration.

7. In view of all the above, we hereby direct the respondent herein to approach the appellant authorities with necessary documents for settling her husband's terminal and other benefits and on receipt of the same, they would verify the same and on satisfaction, they will proceed further in accordance with law at the earliest.

8. With the above observation and direction, the Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of Treasuries and Accounts,
Panagal Buildings, Saidapet,
Chennai-15.

2. The Treasury Officer,
District Treasury, Coimbatore-641 018.

+1cc to the Government Pleader, S.R.No.29222

+1cc to Mr.K.Premkumar, for R.Krishnamurthy, Advocate Sr.29395

W.A.No.674 of 2018

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