

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.4707 of 2010

K.Dhanalaxmi

... Petitioner

Vs.

1. The Secretary,
Labour and Employment Department,
Secretariat, Chennai - 600 001.
2. The District Collector,
Velu Natchiar Valagam,
Dindigul.
3. The Tashildar,
Tashildar Office,
Vedasandur, Dindigul.
4. The Deputy Registrar of Co-Operative Societies,
Vadamadurai,
Dindigul.
5. The Special Officer,
DD 670 Vadamadurai Block,
Agro Engineering & Services Co-operative Centre Limited,
Vadamudurai, Dindigul.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd respondent to implement the order passed by the 1st respondent in G.O.(D) No.1349 dated 26/10/2004 to recover amount from the 4th and 5th respondent through the 3rd respondent.

For Petitioner : Mr.V.Subramani

For R1 to R4 : Mr.J.Ramesh, AGP

For R5 : Mr.L.P.Shanmugasundaram, Spl.GP

O R D E R

The prayer made in this writ petition is to direct the 2nd respondent to implement the order passed by the 1st respondent vide G.O.(D) No.1349 Labour and Employment Department, dated 26/10/2004 and recover the amount from the respondents 4 and 5 through the 3rd respondent and pay the same to the petitioner.

2.The case of the petitioner is that her husband P.Kalimuthu joined as Record Clerk in the fifth respondent Co-operative Centre on 01.12.1977 and was promoted as Superintendent in the year 1998. Since the fifth respondent did not pay salary from August 1996 to 31.05.2002 to his husband, he filed a claim petition No.60/2002 before the Labour Court, Trichy, which was ordered on 07.02.2002. However, the said order was not complied with by the fifth respondent. Hence, he submitted a representation to the first respondent on 03.05.2003 requesting to proceed against the fifth respondent, under Section 33(c)(i) of the Industrial Disputes Act. Thereafter, the first respondent passed an order in G.O.(D) No.1349 dated 26.10.2004, directing the second respondent to recover a sum of Rs.3,87,060.17 and also monthly wages for the periods from 31.05.2002 to 30.04.2004 from the fifth respondent and pay the same to the petitioner. In the mean while, the husband of the petitioner resigned his job on 30.04.2004 and he died on 10.05.2005. However, the petitioner was not paid any amount, including terminal benefits, which compelled her to submit representations dated 22.07.2007 and 13.03.2008 to the second respondent. Finding no response on the said representations, the petitioner is before this Court.

3.On 04.07.2018, when the matter was taken up for consideration, as directed by this Court, the learned counsel for the petitioner produced a calculation memo dated 26.06.2018, with regard to the arrears of salary payable to the husband of the petitioner by the fifth respondent, which reads as follows:

"Arrears of salary from August 1996 to 31.05.2002

(as per G.O.Ms.No.1349 dated 26.10.2004)

Rs.3,87,060.17

Monthly salary from 01.06.2002 to 30.04.2004

(on 30.04.2004, the husband of the petitioner
resigned his job)

Rs.2,05,082.13

.....

Total salary

Rs.5,92,143.00

.....

Further, the petitioner's husband died on 10.05.2005 and he had completed 26 years of service and he has not received any service benefit (Provident Fund, Gratuity, other benefits)."

4.Today, when the matter came up for hearing, the learned Additional Government Pleader appearing for the respondents 1 to 4 and the learned Special Government Pleader appearing for the fifth respondent, on instructions, submitted that the representation submitted by the petitioner dated 13.03.2008 be considered by the respondent concerned, if the petitioner files a calculation memo dated 26.06.2018 now produced before this Court, which has been agreed by the learned counsel for the petitioner.

5.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court directs the petitioner to submit a copy of the representation dated 13.03.2008 along with a calculation memo with regard to the arrears of salary payable to her husband to the respondents within a period of two weeks from the date of receipt of a copy of this order. On such submission, the respondents are directed to consider the same and pass appropriate orders, on merits and in accordance with law and also in the light of G.O.(D) No.1349, Labour and Employment Department, dated 26.10.2004, issued by the first respondent, within a period of four weeks thereafter.

6.Accordingly, this writ petition stands disposed of. No costs.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

1. The Secretary,
Labour and Employment Department,
Secretariat, Chennai - 600 001.

2. The District Collector,
Velu Natchiar Valagam,
Dindigul.

3. The Tashildar,
Tashildar Office,
Vedasandur, Dindigul.

4. The Deputy Registrar of Co-Operative Societies,
Vadamadurai,
Dindigul.

5. The Special Officer,
DD 670 Vadamadurai Block,
Agro Engineering & Services Co-operative Centre Limited,
Vadamudurai, Dindigul.

+1cc to Mr.V.Subramani, Advocate, S.R.No.48749

+1cc to the Spl Government Pleader, S.R.No.48904,48930

W.P.No.4707 of 2010

GSP (05/09/2018)



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