

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.25674 of 2017 & 3129 of 2018

N.Chellamma Amma.. Petitioner in W.P.No.25674 of 2017 & 4th
respondent in W.P.No.3129 of 2018

Ms.U.S.Uma .. Petitioner in W.P.No.3129 of 2018 & 4th
respondent in W.P.No.25674 of 2017,
impleaded vide order of Court dated
31.1.2018 in WMP 740/18 in WP 25674/17

-vs-

1. The Government of Tamil Nadu
represented by its Secretary
Higher Education Department
St.Fort George
Chennai 600 009
2. The Principal Accountant General (A&E)
The office of the Principal
Accountant General (A&E)
No.82, Anna Salai
Chennai, Tamil Nadu
3. The Regional Joint Director of
Collegiate Education
The office of the Regional
Joint Director of Collegiate Education
No.807, Anna Salai
Chennai 600 002 ..Respondents in both the writ petitions

W.P.No.25674 of 2017 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, to direct the first respondent to consider the representation dated 14.8.2017 submitted by the petitioner in relation to issue of relaxation order (Tamilnadu Pension Rule) in favour of petitioner as per the requirement of the Accountant General (A&E), the second respondent herein for granting 50% of pension of petitioner's son Unnikrishnan Pillai (late) died on 14.6.2015 to petitioner (mother, 80 (eighty) years old) who is one among the 2 legal heirs.

W.P.No.3129 of 2018 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents 1 to 3 to disburse the Full Pension/Family Pension amount with regard to late Mr.T.Unnikrishnanpillai i.e.petitioner's father to the petitioner as per the G.O.No.325 dated 28.11.2011.

For Petitioners:: Mrs.P.Uma for the petitioner in
W.P.No.25674/17 & for
4th respondent in W.P.No.25674/17

Mrs.A.Sumathy for the petitioner in
W.P.No.3129/18 & for
4th respondent in W.P.No.25674/17

For Respondents:: Mrs.P.Kavitha
Government Advocate for R1 & 3
Mr.S.Balaji for R2

ORDER

Two writ petitions have been filed claiming pensionary benefits, one by the mother of the deceased Mrs.N.Chellamma Amma, aged about 80 years, claiming 50% share and another by the unmarried daughter of the deceased Ms.U.S.Uma, aged about 26 years, claiming full pension, in respect of the pension of the deceased late T.Unnikrishnan Pillai, who died on 14.6.2015. Since the issue is common, both the writ petitions are taken up together and disposed of by this common order. For convenience, the parties are referred to as arrayed in W.P.No.25674 of 2017.

2. Learned counsel for the petitioner in W.P.No.25674 of 2017 submitted that the deceased T.Unnikrishnan Pillai, being a divorcee, was staying alone till his demise with the support of his brother, sister and the petitioner-mother. After the demise of the petitioner's son late T.Unnikrishnan Pillai on 14.6.2015, the petitioner, who is the mother of the deceased, facing severe financial crisis, filed W.P.No.18855 of 2016 for a mandamus directing the Ramakrishna Mission Vivekananda College represented by its Secretary and Principal, the third and fourth respondents therein to disburse one share (half) of the total retirement benefits of her son T.Unnikrishnan Pillai, who retired from service in the year 2013 with interest @ 10% for the belated period of payment of benefits. In the said writ petition, she also impleaded her granddaughter Ms.U.S.Uma as the fifth respondent. This Court, considering the plight of the parties, by order dated 1.8.2016, while disposing of the said writ petition, ordered as follows:-

"4. In view of the submissions made, first of all, the petitioner and the fifth respondent, who claim to be the legal heirs of the

deceased Unnikrishnan, have to go to the college and fill up necessary forms and sign in the necessary applications, for availing the retirement benefits and when that is done, it is for the college to forward the same to the Government to pass appropriate orders. Hence, the petitioner and the fifth respondent are directed to submit all the necessary forms and papers, duly signed, to the fourth respondent-College for availing the retirement benefits. On receipt of the same, the fourth respondent is directed to forward it to the Government, which shall pass appropriate orders, as expeditiously as possible."

Pursuant thereto, it is represented by both the learned counsel for the petitioner and the learned counsel for the fourth respondent/unmarried daughter that a sum of Rs.15 lakhs each was paid to both of them towards the terminal benefits accrued to the deceased Mr.T.Unnikrishnan Pillai. Now only the pensionary benefits are to be apportioned between the mother and the granddaughter. Therefore, she has come to this Court seeking for consideration of her representation.

3. The learned counsel for the fourth respondent submitted that since Ms.U.S.Uma is an unmarried daughter of the deceased Unnikrishnan Pillai and living with her divorced mother, she should be given the full pensionary benefits, as Mrs.N.Chellamma Amma, her grandmother, who is aged about 80 years, is being taken care of by her other two sons.

4. Heard the learned Government Advocate for the respondents 1 & 3 and the learned standing counsel for the second respondent, who submitted that they would abide by the direction issued by this Court in the matter.

5. This Court is unable to find any merit in the objection raised by the learned counsel for the fourth respondent. The reason being that pursuant to the order dated 1.8.2016 passed by this Court in W.P.No.18855 of 2016, both the petitioner and the fourth respondent had received 50% of the terminal benefits accrued to the deceased T.Unnikrishnan Pillai quantified at Rs.15 lakhs each. When that order has become final, as there was no challenge made by Ms.U.S.Uma, now the prayer made by the fourth respondent not to issue any direction in favour of the petitioner to receive 50% of the pensionary benefit of the deceased, is wholly unacceptable. Therefore, the respondents are directed to process the pension papers forthwith and apportion the pensionary benefits of Mr.T.Unnikrishnan Pillai (late) into two equal shares, of which, one share of 50% of pension shall be paid to the petitioner-mother till her lifetime

and the other 50% share to the fourth respondent-daughter, who are the two legal heirs of the deceased. Thereafter, after the lifetime of Mrs.N.Chellamma Amma, it is for the fourth respondent to claim the entire pensionary benefits of her father, if she is eligible continuously. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order and the respondents shall ensure that both the petitioner and the fourth respondent are given 50% each of the pensionary benefits of the deceased T.Unnikrishnan Pillai. Accordingly, W.P.No.25674 of 2017 filed by the mother stands allowed and the W.P.No.3129 of 2018 filed by the daughter stands dismissed. Consequently, W.M.P.No.3842 of 2018 is also dismissed. No costs.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

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To

1. The Secretary to Government
Higher Education Department
St.Fort George
Chennai 600 009
2. The Principal Accountant General (A&E)
The office of the Principal
Accountant General (A&E)
No.82, Anna Salai
Chennai, Tamil Nadu
3. The Regional Joint Director of
Collegiate Education
The office of the Regional
Joint Director of Collegiate Education
No.807, Anna Salai
Chennai 600 002

+ 2 cc to M/s.A.Sumathy Advocate, SR.12320,12321
+ 2 cc to M/s.P.Uma, Advocate, SR.12131,12130
+ 2 cc to M/s.S.Blaji, SR.12592
+1cc to Government Pleader in sr.no.13239

W.P.Nos.25674 of 2017 &
3129 of 2018

nr 20/03/2018