



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2640 of 2018

Valliammal

... Petitioner

Vs.

1. The Provident Fund Commissioner (Pension),
E.P.F Organizations, Regional Office,
Madurai - 625 002.

2. The Assistant Provident Fund Commissioner, (Pension),
E.P.F. Organizations, Regional Office,
Madurai - 625 002.

3. The Management,
Tea Estates India Limited,
Venniyar Estate,
High Wavys Post, Chinnamanur Via,
Theni District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to quash the order passed by the second respondent vide his proceedings in Ref.TN/MDU/RO/716/2337/Pension - I/2016 dated 03.10.2016 and further directing him to grant Family Pension, Life Assurance Benefit and other monetary benefits to the petitioner.

For Petitioner : Mr.A.Jayaramachandran
For Respondents : Mr.A.John Xavier for R1 & R2
R3- No appearance

ORDER

The petitioner's husband was employed in the third respondent Tea Estate. He passed away on 03.02.1988 at Madurai Rajaji Government Hospital. The petitioner applied for disbursement of family pension. It was rejected by order dated 03.10.2016 passed by the second respondent herein. The same is assailed in this writ petition.

2.Heard the learned counsel on either side.

3.It is admitted in the counter affidavit filed by the Employees Provident Fund Organisation that the third respondent establishment stood covered under the provisions of the Employees Provident Fund Act, 1952. They were given code No.TN/716. It is



also not in dispute that the writ petitioner's husband Mani joined the third respondent establishment as an employee in the year 1978 onwards and allotted P.F Account Number TN/716/20145. It is again admitted that he passed away on 03.02.1988. According to the EPFO organisation, the death of the petitioner's husband did not occur during the period of reckonable service. That is the reason for not sanctioning the family pension in favour of the petitioner. It is further stated that the petitioner having re-married is not eligible.

4.This Court is unable to agree with the stand of the EPFO. It is not in dispute that the petitioner was an employee in the third respondent establishment and was allotted P.F Ac. No.TN/716/2045. The petitioner's husband was however mistakenly assigned a new PF Ac.No. In TN/716/2337. It appears that the EPFO was not informed of this earlier. But now that the facts have come to light and it is not in dispute that the death occurred during the reckonable service of the petitioner's husband, EPFO is bound to sanction the family pension to the petitioner together with arrears.

5.It is true that the petitioner has chosen to approach the EPFO after a very long time. Taking note of the petitioner's conduct, this Court can negative her claim of interest. The learned counsel appearing for the petitioner on instructions from the petitioner submitted before this Court that the petitioner would not lay any claim for payment of interest. The fact that the petitioner has remarried cannot be put against her. Widow remarriage is a socially laudable object and that it can never brought as a disqualification.

6.In this case, the deceased employee had begotten two children through the writ petitioner. Therefore, the said ground is clearly not available in law. Viewed from any angle, the order impugned in this writ petition is liable to be quashed. It is accordingly quashed. The respondents are directed to grant the family pension and other benefits payable to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. As already pointed out, the petitioner will not entitled to payment of any interest.

7.This writ petition is allowed. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/



To

1. The Provident Fund Commissioner (Pension),
E.P.F Organizations, Regional Office,
Madurai - 625 002.

2. The Assistant Provident Fund Commissioner, (Pension),
E.P.F. Organizations, Regional Office,
Madurai - 625 002.

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SKM

PK/CSL/SAR-4/01.06.2018 : 3P/3C