



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2018

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.12181 of 2018

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... Petitioner

Vs.

- 1.The Secretary to
The Public Health Ministry of Public Health & Family Planning,
Government of Tamil Nadu,
Secretariat Buildings,
Chennai.
- 2.The Director of Public Health and Preventive Medicine,
Chennai - 6.
- 3.The Deputy Director of Health Services,
Public Health Department,
Government of Tamil Nadu,
Madurai Town.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to disburse the pension and other benefits applicable to Mr.S.Natarajan, who is missing since 02.05.2003 under law presumed to be dead to his wife namely, the petitioner.

For Petitioner : Mr.P.Murugadasan

For Respondents : Mr.R.Sethuraman, Spl.G.P.

O R D E R

The petitioner has come forward with the present Writ petition to issue a Writ of Mandamus, directing the respondents to disburse the pension and other benefits applicable to the husband of the petitioner viz., S.Natarajan, who is found missing since 02.05.2003.

2.According to the petitioner, her husband, who was working as Health Inspector Grade - I, is found missing from 02.05.2003. A complaint to that effect has been given on 25.06.2003 to the Superintendent of Police, Madurai District and also Town Police Station at Thirumangalam, Madurai District vide Reference No.GDP/689/SPMD/03 towards man missing. Thereafter, on 21.02.2013 the second respondent by initiating a disciplinary action against the husband of the petitioner, removed him from service permanently.

3.The contention of the petitioner is that as her husband is found missing for more than 7 years, he deemed to have died and that the petitioner would be entitled to the eligible terminal benefits of her husband and filed the present Writ petition.



4. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

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5. As the Writ petition has been filed in the year 2018 the petitioner has declared herself as the wife of late S. Natarajan. It is seen that yet another complaint has also been given in the year 2012 in Crime No. 480 of 2012 before the Thirumangalam Town Police Station.

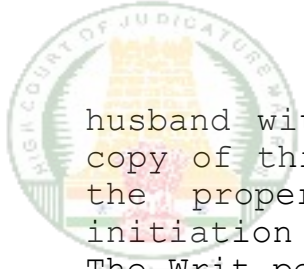
6. The learned Special Government Pleader appearing for the respondents by filing a status report of the Inspector of Police, Tirumangalam Town Circle would submit that a detail investigation was conducted by the respondents and also by the Police and the investigation reveals the fact that the petitioner's husband used to visit various temples at Rameshwaram, Kasi, etc. Further, sincere efforts have been taken to trace the whereabouts of the missing person by distributing pamphlets, publishing advertisement in newspaper and also in All India Radio. Since the petitioner's husband was found missing from 12.05.2003, the Inspector of Police stated that the status report may be accepted and orders may be passed.

7. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

8. It is not in dispute that the petitioner's husband is said to be missing from 2003 and the factum of the preferring a complaint in the year 2003 is also produced. It is also seen that a missing case was registered only in the year 2012 in Crime No. 480 of 2012 and only thereafter, investigation has been commenced. This shows that there was no investigation from 2003 till 2012 and no efforts have been taken neither by the petitioner nor by the Police to trace the missing person.

9. The learned Special Government Pleader appearing for the respondents submitted that as the petitioner's husband could not be traced, appropriate orders may be passed to settle the terminal benefits due to the petitioner's husband by safeguarding the interest of the respondents.

10. Taking into consideration of the fact that the petitioner's husband has worked from 08.02.1982 to 31.03.2003 in the respondents / Department and he is found missing from 2003 and that the presumption is he is dead, the terminal benefits due to him have to be paid to the petitioner. Accordingly, the respondents are directed to settle the terminal benefits due to the petitioner's



husband within a period of 3 months from the date of receipt of a copy of this order. In case the petitioner's husband appears, then the property of the petitioner will be attached apart from initiation of criminal and other proceedings against the petitioner. The Writ petition is disposed of accordingly. No costs.

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Sd/-

Assistant Registrar(Co)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

- 1.The Secretary to
Government of Tamil Nadu,
The Public Health Ministry of Public Health & Family Planning,
Secretariat Buildings, Chennai.
 - 2.The Director of Public Health and Preventive Medicine,
Chennai - 6.
 - 3.The Deputy Director of Health Services,
Public Health Department, Government of Tamil Nadu, Madurai Town.
- +1 cc to Special Government Pleader, SR.No.83663.

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