

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 05.06.2018****CORAM:****THE HONOURABLE MR. JUSTICE R. SURESH KUMAR****W.P. [MD].No.8752 of 2018**

Vasuki : Petitioner
Vs.

The Superintending Engineer,
TANGEDCO, Sivagangai,
Sivagangai District. : Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the respondent in க.எண். 007759/304/மே.மொ/சி.மியவ/சிவ/நிஅ/நிபி2/உ1 கோ.கு.ஒ/2016 நாள் 12.08.2016 and quash the same and consequently direct the respondent to reconsider the petitioner's representation regarding family pension.

For Petitioner : Mr.N.Madhava Govindan

For Respondent : Mrs.S.Srimathy
Standing Counsel

O R D E R

The prayer sought for in this Writ Petition is for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order dated 12.08.2016 passed by the respondent herein and quash the same and consequently direct the respondent to reconsider the petitioner's representation regarding family pension.

2. Heard Mr.N.Madhava Govindan, learned counsel appearing for the petitioner and Mrs.S.Srimathy, learned Standing Counsel appearing for the respondent.

3. The husband of the petitioner, one Ramasamy @ Matchakalai, served in the respondent Department and retired from service and was getting pension from the respondent department. While so, he died on 13.07.2013. Thereafter, the petitioner, who is the wife of the deceased employee, applied for family pension to the respondent, on 18.11.2013, where the petitioner claimed that she enclosed all the necessary certificates, such as, legal heir certificate, etc., to make the claim of family pension. However, the said request was rejected by the respondent on 12.08.2016. By the said order, the respondent has rejected the claim of the petitioner for grant of pension on the ground that the



deceased employee did not nominate any person as nominee in the pension book and therefore, on that ground, her request was rejected. Challenging the said order, the petitioner has come forward with the present Writ Petition.

4. On the face of it, the reason cited in the impugned order will not stand under the legal scrutiny, because, non-mentioning of the name of the nominee as legal heir of the deceased employee shall not be a reason to reject the claim for family pension. Here, in the instant case, the petitioner is the wife of the deceased employee and therefore, on that ground, she is entitled to claim family pension. Therefore, her claim shall not be rejected outrightly by citing the reason, as has been cited in the impugned order.

5. This position is also not disputed by the learned Standing Counsel appearing for the respondent, who would fairly submit that for the above said reason cited in the impugned order, it shall not stand and therefore, the impugned order may be set aside and the matter may be remanded to the respondent for re-consideration.

6. In view of the above position, the impugned order dated 12.08.2016 passed by the respondent herein is quashed and the matter is remanded to the respondent for re-consideration. On such re-consideration, the respondent shall consider the claim of the petitioner for family pension and after verifying such claim, necessary orders shall be passed with regard to the sanctioning of the family pension to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

7. With this, the Writ Petition is ordered as above. No costs.

Sd/-
Assistant Registrar(Crl.Side)

/True copy/

Sub Assistant Registrar

To

The Superintending Engineer,
TANGEDCO, Sivagangai,
Sivagangai District.

+1cc to Mr.N.Madhava Govindan, Advocate, SR.No.66757.
+1cc to M/s.S.M.S.Johnny Basha, Advocate, SR.No.66756.

ORDER MADE IN
W.P.[MD].No.8752 of 2018
05.06.2018

NB

<https://hcservices.ecourts.gov.in/hcservices/>

RAM/JC/SAR 4/18.06.2018/2P/4C