



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2018

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.648 of 2015

and

W.M.P. (MD) .No.1 of 2015

M.Gandhimathi

.. Petitioner

Vs.

1. The Commissioner,
Madurai Corporation,
Madurai.

2. The Assistant Commissioner,
Madurai Corporation,
Madurai.

3.S.Vennila

4. Minor K.V.Srimathi Meenal,
Represented by her guardian/Mother
Ms.S.Vennila

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for records relating to the impugned order passed by the second by the second respondent in his preceeding எண்.மந/2/036298/2014, dated 31.12.2014 and the quash the same as illegal and consequentially to direct the respondents to grant all the terminal benefits including DCRG and family pension arising out of the death of Late.Mr.M.Kannan in equal shares to the petitioner as well as the fourth respondent within the period that may be stipulated by this Court.

For petitioner

: Mr.Md. Imran
for M/s.Ajmal Associates

For R-1 and R-2

: Mr.R.Murali
Standing Counsel

For R-3 and R-4

: No appearance

**ORDER**

Heard Mr.Md. Imran, for M/s.Ajmal Associates, learned Counsel for the petitioner and Mr.R.Murali, learned Standing Counsel appearing for the Respondents No.1 and 2.

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2. The writ petitioner is the mother of one Kannan, who was employed in Madurai Corporation. He passed away on 20.12.2011, while in service. The third respondent Vennila was his wife. But she filed H.M.O.P.No.69 of 2008 on the file of the Sub Court, Devakottai and got divorce on 13.04.2009. But the fourth respondent is the daughter born to the writ petitioner's son through the third respondent. The writ petitioner is said to have remitted a sum of Rs.60,000/- for discharging the liability of the said Kannan. The writ petitioner wanted disbursement of her share in the terminal benefits of her son, but the same was objected by the third respondent on behalf of the fourth respondent. Therefore, the second respondent passed the impugned communication informing the writ petitioner accordingly. Aggrieved by the same, this writ petition has been filed.

3. It is beyond dispute that the writ petitioner is the mother of the deceased employee Kannan. Therefore, the writ petitioner has to be paid 50% of the share of the terminal benefits of the deceased. However, as regards family pension, the fourth respondent minor daughter alone is entitled to receive.

4. The learned counsel appearing for the writ petitioner submitted that she had remitted certain sum towards clearing the liabilities of her son to the first respondent Corporation. She therefore prayed that the said sum may be deducted from the amount payable to the fourth respondent and paid to her.

5. I find merit in this submission. The impugned communication merely conveys the information that there is an objection from the fourth respondent. It does not in anyway determine the rights of the writ petitioner. Therefore the question of quashing the impugned order does not arise. However, the relief must be granted to the writ petitioner. The same is done in the following terms:

(i) the first respondent shall quantify the terminal benefits payable on account of death of the late employee M.Kannan, son of the writ petitioner and disburse 50% of the same to the writ petitioner.

(ii) Since the writ petitioner had already remitted certain sum which was liable to be paid by said Kannan, the said amount shall also be deducted from what is payable to the fourth respondent and said sum shall also be paid to the writ petitioner from the aforesaid 50% share. It is made clear that the fourth respondent alone shall be entitled to get family pension. The writ petitioner cannot have any claim thereon.



6. The writ petitioner as well as the fourth respondents are directed to fulfil the formalities required to be done for disbursing the aforesaid benefits. The entire exercise shall be completed within a period of eight weeks.

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7. This Writ petition is allowed accordingly. No costs. Consequently, W.M.P.(MD).No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub Assistant Registrar

To:

1. The Commissioner,
Madurai Corporation,
Madurai.
2. The Assistant Commissioner,
Madurai Corporation,
Madurai.

- +1. C.C. to M/S.R.Murali, Advocate SR.No.41601
+1. C.C. to M/S.Ajmal Associates, Advocate SR.No.41781

ORDER MADE IN
W.P. (MD) No.648 of 2015
and
W.M.P. (MD) .No.1 of 2015
10.01.2018

AE/KKR/SAR-1/07.02.2018 : 3P/5C