



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.02.2018

CORAM:

WEB COPY

THE HONOURABLE **MR. JUSTICE G.R. SWAMINATHAN**

W.P. (MD) No.16597 of 2017

and

W.M.P (MD) No.13204 of 2017

Jayaraj

... Petitioner

Vs.

1. The Accountant General
(Accounts & Entitlements),
Tamil Nadu, Teynampet,
Chennai - 600 018.
2. Assistant Elementary Education Officer,
Rajapayalam & P.O
Virudhunagar District.
3. The Secretary,
Gandhi Primary School,
Arulputhur, Puthur (post),
Virudhunagar District.

4.Dinesh Babu

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records in the impugned letter No. Ay(A&E) Pen 13/IV/PPL 15110/16-17 dated 02.03.2017 issued by the 1st respondent and quash the same and direct the 1st respondent to grant the petitioner, the death-cum-terminal service benefits including the family pension payable on the death of Late J.Jagatheeswari, Secondary Grade Assistant (Selection Grade) (date of Death 03.03.2010) served at the 3rd respondent school as per the Judgment and decree dated 31.07.2012 passed in O.S.No.121/2010 on the file of Principal District Munsif Court, Srivilliputhur, within a time fixed by this Court.

For Petitioner : Mr.C.Dhanaseelan

For Respondents : Mr.P.Gunasekaran
for R1

Mr.Gunaseelan Muthiah

Addl. Govt. Pleader

for R2

**ORDER**

The petitioner's daughter J.Jegatheeswari was employed in an aided Private School as Secondary Grade Teacher. Unfortunately, she died on Cancer. But before her demise, she had executed a registered Will, in which, she nominated the petitioner herein as Executor of the Will. She also nominated the petitioner who is none other than her father, as guardian for the minor children, namely, Dharani Sudha and Loga Lakshmi. The said Will has been duly proved in O.S.No.121 of 2010 on the file of the Principal District Munsif, Srivilliputhur vide Judgment and Decree dated 31.07.2012 passed in favour of the petitioner herein. The petitioner has been authorised to receive the death benefit of his daughter. However, the first respondent has now taken a stand that unless the petitioner submits a legal heirship certificate, it is not possible to disburse the death benefits.

2.This Court is of the view that this stand of the first respondent cannot be appreciated in view of the Judgment and Decree in O.S.No.121 of 2010 on the file of the Principal District Munsif Court, Srivilliputhur. However, at the same time, the stand taken by the learned counsel for the first respondent that the interest of the minors is paramount has to be accepted.

3.The learned counsel appearing for the first respondent submits that the benefit in question cannot be directly disbursed to the petitioner herein.

4.Admittedly, the petitioner's grandchildren are presently minors as of now. Therefore, in order to protect the interest of the minor children, the following directions are issued:-

(1) The petitioner shall open an account in a Nationalized Bank in the name of his grandchildren, namely, Dharani Sudha and Loga Lakshmi and the petitioner's name shall be shown as guardian to operate the said bank account.

(2) The drawing officer will disburse the DCRG and the terminal benefits excluding family pension and remit the same directly in the said account upon being furnished with the details by the petitioner herein.

(3) The other benefits will be disbursed by the Treasury Officer, Virudhunagar and remit the same into the bank account upon details being furnished by the petitioner herein.

(4) The first respondent shall issue the payment order incorporating these directions within a period of ~~12~~ 14 weeks from the date of receipt of a copy of this order.



(5) A direction is issued to the second respondent to resubmit the proposal in this regard to the first respondent within a period of two weeks from the date of receipt of a copy of this order.

(6) The petitioner is entitled to withdraw the accrued interest once in three months.

(7) It is open to the petitioner's grandchildren, namely, Dharani Sudha and Loga Lakshmi to deal with the bank deposit in the manner as they deem fit upon attaining majority.

With the above directions, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The Accountant General
(Accounts & Entitlements),
Tamil Nadu,
Teynampet,
Chennai - 600 018.

2. Assistant Elementary Education Officer,
Rajapayalam & P.O
Virudhunagar District.

+ 1 cc TO Mr.P.Gunasekaran , Advocate in SR No. 50442
+ 1 cc TO The Special Government Pleader in SR No. 50200

skn

AE/KKR/SAR2/31.05.2018/3P/5C

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