



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :27.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY
and

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.6117 of 2016

and

W.M.P(MD)No.5405 of 2016

R.Anbazhagan
Through
R.Rajasekaran,
Custodian, next friend and guardian of
R.Anbazahan

... Petitioner

Vs.

1. The Principal District Judge,
Ramanathapuram.
2. The District Munsif,
Ramanathapuram.
3. The Accounts Officer,
Accountant General Officer,
(Accounts and Entitlements) - Tamilnadu,
361, Anna Salai,
Chennai - 18.

- 4.S.Tamilarasi
- 5.R.Ravindran
- 6.R.Rajendran
- 7.B.Tamilselvi
- 8.M.Santhakumari

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 1st and 2nd respondents to forward the service register of Rajarathinam retired Head Clerk, District Munsif Court, Ramanathapuram, to the 3rd respondent for sanctioning family pension in favour of Anbazhagan, S/o.Rajarathinam.

For Petitioner : Mr.I.Suthakaran

For R-1 & R-2 : Mr.K.Samidurai

For R-3 : Mr.P.Gunasekaran

For R-4 to R-8 : No Appearance

**ORDER**

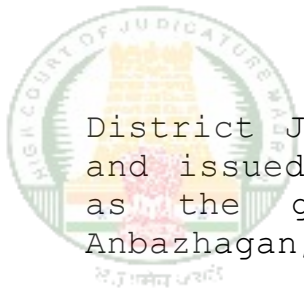
(Order of the Court was made by **M.DURAISWAMY, J.**)

The petitioner has filed the above writ petition to issue a Writ of Mandamus, directing the respondents 1 and 2 to forward the Service Register of M.Rajarathinam, retired Head Clerk, District Munsif Court, Ramanathapuram, to the third respondent for sanctioning family pension in favour of R.Anbazhagan, son of Rajarathinam.

2. According to the petitioner, his father Rajarathinam was working as a Head Clerk in the second respondent Court and attained superannuation on 31.05.1988. He was getting pension till he died on 04.06.2015. Further, according to the petitioner, the said Rajarathinam had three daughters and four sons. The guardian of the petitioner, namely, R.Rajasekaran, is the eldest son and the youngest is the petitioner, namely, Anbazhagan, who is a bachelor and mentally retarded person. Till the death of Rajarathinam, he is taking care of the petitioner. The mother of the petitioner predeceased Rajarathinam on 31.12.1976. After the death of Rajarathinam, the petitioner is under the custody and care of the guardian, namely, Rajasekaran. The Medical Board, Government Rajaji Hospital, Madurai, issued a Certificate dated 01.06.2015 to the effect that Anbazhagan was suffering from 'Schizophrenia' and the disease affected him is 60%.

3. According to the petitioner, after the death of Rajarathinam, Anbazhagan is entitled to get family pension as per G.O.Ms.No.107, dated 07.03.2000. Therefore, the guardian of the petitioner submitted an application to the third respondent through the second respondent seeking for family pension. In spite of repeated reminders and requests made by the guardian, the respondents failed to grant the family pension to the petitioner, who is mentally retarded. In these circumstances, the petitioner has filed the above writ petition.

4. This Court by order dated 20.04.2016, directed the guardian to produce the petitioner, who is mentally unsound, before the Principal District Judge, Ramanathapuram on 25.04.2016 for subjective satisfaction as to the physical condition along with the Doctor. However, the first respondent Principal District Judge, Ramanathapuram, filed a report stating that R.Rajasekaran, the guardian of the petitioner, accompanied by the petitioner R.Anbazhagan along with respondents 4 to 8, came to his office on 25.04.2016 But, the petitioner was not accompanied by the Psychiatrist Doctor as per the directions of this Court. Subsequently, the guardian of the petitioner filed Mental Health Original Petition No.3 of 2017 on the file of the Principal District Judge, Madurai, to appoint him as the guardian of the mentally retarded person, namely, R.Anbazhagan. The Principal



District Judge, vide order dated 09.02.2018 allowed the petition and issued the guardianship certificate to the said Rajarsekaran as the guardian of the mentally disabled person, namely, Anbazhagan, who is the petitioner in this writ petition.

5. The second respondent also filed a report before this Court, wherein he has stated that the other legal heirs of the deceased Rajarathinam had given an affidavit dated 06.08.2015 stating that they have no objection in paying the family pension to the mentally ill person, namely, R.Anbazhagan. In view of the report filed by the second respondent, it is clear that Anbazhagan is entitled to the family pension of his deceased father M.Rajarathinam.

6. The learned counsel appearing for the petitioner submitted that the files are pending before the second respondent and it would be suffice to direct the second respondent to send the files to the third respondent enabling the third respondent to pass appropriate orders for the grant of family pension to the mentally retarded person.

7. The learned counsels appearing for the respondents 1 to 3 have no objection for giving such a direction to the respondents 2 and 3.

8. Mr.K.Samidurai, learned counsel appearing for the respondents 1 and 2 submitted that since the said M.Rajarathinam attained superannuation as early as in the year 1988, the Service Register and other records could not be traced in the second respondent's office. However, the learned counsel submitted that the second respondent had reconstructed the available records now.

9. Having regard to the submissions made by the learned counsel appearing on either side, we direct the second respondent to send the reconstructed available papers to the third respondent keeping a copy of the same in his office, within a period of two weeks from the date of receipt of a copy of this order and in turn, the third respondent is directed to consider the petitioner's application and pass orders, in accordance with law, within a period of four weeks from the date of receipt of the records from the second respondent.

10. With these observations, the writ petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)



To:

1. The Principal District Judge,
Ramanathapuram.

2. The District Munsif,
Ramanathapuram.

3. The Accounts Officer,
Accountant General Officer,
(Accounts and Entitlements) - Tamilnadu,
361, Anna Salai,
Chennai - 18.

+1cc to Mr.I.Suthakaran, Advocate Sr.No.70061

+1cc to Mr.P.Gunasekaran, Advocate Sr.No.70297

PM

VB/SB/SAR2/06.07.2018/4P/6C

W.P(MD)No.6117 of 2016
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