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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.11.2019

C O R A M

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.29263 of 2016

C.Krithiga

... Petitioner

Vs.

1.The Principal Secretary to Government,
Transport Department,
Fort St. George,
Chennai - 600 009.

2.The Transport Commissioner,
Elizhagam, Chennai - 600 005.

3.The Regional Transport Officer,
Chennai - Central
Aynavaram, Chennai - 600 023.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the Respondents herein to disburse the terminal/retirement benefits of late M.C.Chelladurai, Motor Vehicle Transport - Grade I, equally to his surviving legal heirs by considering the Petitioner's representation dated 16-07-2016.

For petitioner : Mr.K.Annadurai

For Respondents: Ms.K.Bhuvaneswari
Additional Government Pleader.

ORDER

The instant writ petition is filed for a Writ of Mandamus, directing the respondents herein, to disburse the terminal/retirement benefits of late Mr.M.C.Chelladurai, Motor Vehicle Transport - Grade I, equally to his surviving legal heirs, by considering the Petitioner's representation, dated 16.07.2016.



2. The petitioner's father was employed as Motor Vehicle Inspector Grade-I in the Transport Department and he was not permitted to retire because pending disciplinary proceedings by an order dated 27.04.2000 issued under Fundamental Rules 56(1)(c). The petitioner's father passed away on 17.07.2006. On the death of the petitioner's father, the disciplinary proceedings, have abated. The petitioner's father was also facing a criminal trial in C.C.No.22 of 1997, on the file of XI Additional Session Court/CBI Court, Chennai.

3. Under Section 394 of the Criminal Procedure Code, the trial abates on the death of an accuse and therefore the trial against the petitioner's father was also abated. The petitioner has been given representation to the respondents for release of family pension to which the member of the family are entitled to on the date of death of parents the government servant. The family pension has yet not been given. Claiming the family pension and terminal benefits, petitioner has filed the instant writ petition.

4. The respondents have filed counter affidavit and have denied the entitlement of the benefits to the petitioner.

5. Heard the learned counsel for the parties.

6. The petitioner's father passed away, leaving behind his wife and five daughters, including petitioner. On his death, both the disciplinary proceedings and criminal proceedings, has abated.

7. It is well settled that there is presumption of innocence in an accused till the person is convicted under the Court of Law. Since the petitioner's father died, during the pendency of the trial, presumption of innocence, would stand attached to the petitioner. The disciplinary proceedings have abated. There is no impediment in the release of terminal benefits and family pension, which has to be paid to the family of Mr.M.C.Chelladurai.

8. In view of the above, instant writ petition is allowed. The respondents are directed to release the terminal benefits



and family pension to the petitioner, within a period of twelve weeks, from the date of receipt of a copy of this order. No Costs.

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Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

dm
To

1.The Principal Secretary to Government,
Transport Department,
Fort St. George,
Chennai - 600 009.

2.The Transport Commissioner,
Elizhagam, Chennai - 600 005.

3.The Regional Transport Officer,
Chennai - Central
Aynavaram, Chennai - 600 023.

+1cc to Mr.K.Annadurai, Advocate SR.93208
+1cc to the Government Pleader SR.93736/19

W.P.No.29263 of 2016

SAI (CO)
CB(08/01/2020)