

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.04.2019

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.39642 of 2016
and
W.M.P.No.33916 of 2016

Chandrika

.. Petitioner

Vs.

1.The Revenue Divisional Officer,
Coimbatore District,
Coimbatore.

2.The Special Officer,
CM Special Cell,
Secretariat, Chennai - 9.

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the first respondent by proceedings Mu.No.7427/2015/AA4 dated 31.08.2015 and quash the same and consequently direct the respondents to extend the benefits of G.O.(Ms).No.141 dated 24.02.2014 and pay Rs.1,00,000/- from the Chief Minister's Accident Relief Fund.

For Petitioner : Mr.K.C.Karl Marx

For Respondents : Mr.N.Inbanathan
Special Government Pleader

O R D E R

This writ petition has been filed challenging the order passed by the first respondent in proceedings Mu.No.7427/2015/AA4 dated 31.08.2015 and consequently direct the respondents to extend the benefits of G.O.(Ms).No.141 dated 24.02.2014 and pay a sum of Rs.1,00,000/- from the Chief Minister's Accident Relief Fund.

2. The petitioner is a widow and has 4 year old son. The petitioner's husband met with a road accident on 07.04.2013 at

Tiruppur, and died on the way to hospital. The vehicle indulged in accident had no insurance and hence the petitioner could not able to avail any insurance. Later, she came to know that as per G.O.(Ms).No.141 dated 24.02.2014, the family of the victim, who died in road accidents would get Rs.1,00,000/- from the Chief Minister's Accident Relief Fund. Hence, the petitioner applied for the said fund. But the first respondent vide its proceeding in Vo.Mu.No.7427/2015/AA4 dated 31.08.2015 had rejected her claim on the ground that there was a delay in submitting the application applying for assistance, which ought to be made within a period of one year from the date of accident.

3. The petitioner claimed that the delay in issuance of the legal heir certificate is the reason for the belated submission of the application. It is her case that initially, she approached the Tahsildar, Coimbatore for issuance of legal heir certificate. The Tahsildar, Coimbatore vide its reply dated 31.07.2014 in proceedings No.Oo.Mu.7799/2014/AA1, informed the petitioner that the FIR and the death certificate shows the permanent address as Tiruppur and hence the legal heir certificate has to be obtained only from Tahsildar, Tiruppur. Thereafter, the petitioner approached the Tahsildar, Tiruppur and gave a representation on 03.09.2014, who in turn sent a reply dated 08.10.2014 by its proceedings in Na.Ka.No.4251/2014/AA2 stating that the legal heir certificate could be issued only in Coimbatore as they are permanent resident of Coimbatore. Thereafter, the petitioner made a representation to the District Collector, Coimbatore on 22.06.2015 and only on 14.08.2015 she was issued with legal heir certificate. Immediately, the petitioner applied for the victim compensation. But, as stated supra, the same has been rejected by the first respondent stating that the application is not made within a period of one year.

4. The petitioner has also made a representation to the second respondent on 28.08.2016 seeking to consider her case compassionately for grant of relief by condoning the delay if any. But, the same has not been considered by the respondents till date. Hence, the petitioner is before this Court.

5. Resisting the claim of the petitioner, the respondents filed a counter-affidavit, wherein, the delay in obtaining the legal heirship certificate was attributed to the petitioner and her inaction to get her name included in the family card of her husband from the family card of her parents. It is also stated that the petitioner was given Legalheirs certificate only on humanitarian grounds, that too based on the affidavit and statement given before the revenue officials. It is further stated that in order to help her to get accident relief fund, her case was sympathetically considered to issue the legal heirs

certificate. In paragraph 7 of the counter affidavit, the procedure for receiving Accident Relief Scheme is enumerated and the said paragraph reads as follows :

"The procedure for receiving Accident Relief Scheme is "after obtaining the death certificate and legal heir certificate, the petitioner ought to have submitted an application for Accident Relief Fund to the concerned Inspector of Police, where FIR has been filed. The application will be forwarded to the concerned Revenue Divisional Officer through the Deputy Superintendent of Police. The application once received in the Revenue Divisional Office will be entered in the register and according to availability of fund, the relief amount will be issued as per seniority". In this particular case, as the FIR has been filed in Perumanallur Police Station, Tiruppur District, the application for Accident Relief Scheme is to be processed in Tiruppur District."

It is, thus, stated that the delay in obtaining the legal heirship certificate is only due to the lethargic behaviour and because of the non-inclusion of the petitioner's name in her deceased husband's family card, after marriage. Accordingly, the respondents sought dismissal of this writ petition.

6. Heard the learned counsel appearing on both sides.

7. A quote on public service says, "Public service/Government service must be more than doing a job efficiently and honestly. It must be a complete dedication to the people and to the nation."

8. However, the instant case shows sorry state of affairs about the people in public service. It is to be stated that the Government service should be for the people. Hyper-technicality should not come in the way of the Government servants to take the welfare schemes to the needy, for whom it was intended for.

9. The learned counsel for the petitioner placed reliance on G.O.(Ms)No.141, Home (Tr.IV) Department, dated 24.02.2014, to seek the solatium provided therein to the victims of road accidents. In the said Government Order (G.O.), inter alia, an enhancement from Rs.50,000/- to Rs.1,00,000/- was given to the family member, who lost one from their family, in accidents involving motor vehicles. The said G.O. does not prescribe any time limit to avail benefit provided therein. It seems originally, vide G.O.Ms.No.508, Home (Tr.IV) Department, dated 26.05.2010, such relief fund was fixed at Rs.25,000/-, which stood enhanced to Rs.50,000/- vide G.O.Ms.No.49, Home (Tr.IV)

Department, dated 09.01.2012. A perusal of G.O.Ms.No.49 also shows that there is no time limit prescribed therein to grant such relief to the victims.

10. A perusal of the impugned order would go to show that it is a cryptic order and the only reason assigned by the first respondent to negative the prayer of the victim is the belated submission of the application, i.e., she submitted her claim application beyond the period of one year. The first respondent has not relied on any provision or rule, which mandates the victim to submit the application within a period of one year from the date of accident.

11. Be that as it may, excepting fingering the victim for the belated submission of the application, the first respondent has not chosen to extend any kind of assistance to the petitioner, the victim woman, who lost her husband at the age of around 29 years, when she has one year old boy to take care of. Even in the counter affidavit filed before this Court the first respondent only thrown the blame on the petitioner - a poor uneducated woman for lethargic behaviour and not heeding to the advice offered by the Tahsildar, Tiruppur (North).

12. It is true that the petitioner had not chosen to delete her name from the family card provided to her parents and include the same in the one possessed by her in-laws and husband. Hence, there was a jurisdictional issue to the revenue authorities to issue the legal heirship certificate. But is it a ground for the revenue authorities to let her to run from pillar to post ?. The answer should be in the negative. The Tahsildar, Coimbatore (North), to whom, the petitioner approached first, could have simply forwarded her application to the jurisdictional Tahsildar, instead of returning her application and asking her to approach the Tahsildar, Tiruppur (North). That would be really humanitarian and sympathetic approach. On the other hand, surprisingly, the first respondent claimed their duty as a humanitarian and sympathetic approach, which could not be appreciated for a moment.

13. As stated above, the respondents failed to place any material before this Court stipulating one year limitation for the victims to avail the benefit under the G.O.Ms.No.171, dated 24.02.2014. Even assuming that there is a limitation, the authorities should be given delegation of power to condone the delay in appropriate cases or, at least, the Government should get the application forwarded to take a call whether to condone the delay in such cases extending the real fruits to the victims.

14. For the foregoing reasons, the impugned order dated 31.08.2015 is set aside and the first respondent is directed to send the application submitted by the petitioner to the jurisdictional Police Station and get it recommended based on the accident register and other relevant records and reconsider the said application of the petitioner, without reference to limitation, in accordance with law and pass appropriate orders extending the benefit of G.O.Ms.No.141, dated 24.02.2014 to the petitioner. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

15. This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rsi/gg
To

1.The Revenue Divisional Officer,
Coimbatore District,
Coimbatore.

2.The Special Officer,
CM Special Cell,
Secretariat, Chennai - 9.

+1cc to Government Pleader sr.42514
+1cc to Mr.K.C.Karl Marx, Advocate sr.41773

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