

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.32058 of 2019

S.Aruputham

Petitioner

vs.

1. The Chairman,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

2. The Secretary,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

3. The Chief Mechanical Engineer,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

4. Kalaiselvi

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the record of the 3rd respondent in his proceeding No.MEE/C2/0813/2018/Estt. Dated 16.10.2019 and quash the same and consequently direct the 1st to 3rd respondents to forthwith sanction appropriate share in the DCRG and GPF of deceased S.Krishnan to the petitioner on war-footing basis.

For Petitioner : Mr.K.Raja

For Respondents: Mr. Haja Mohideen Gisthi for R1 & R3
Mr.G.Gokul for R4

ORDER

This writ petition has been filed challenging the proceedings of the 3rd respondent dated 16.10.2019 and for a consequential direction to the respondents to sanction the appropriate share of the petitioner in DCRG and GPF of the deceased S.Krishnan, who is the son of the petitioner.

2.The son of the petitioner was working at Chennai Port Trust. The said S.Krishnan met with an accident and he died on 28.06.2018 leaving behind the petitioner and the 4th respondent as his legal heirs. The petitioner who is the mother of the deceased issued a legal notice to the Port Trust

and sought for the appropriate share in the terminal benefits. Since the same was not considered, W.P.No.9657 of 2019 was filed before this Court and this Court directed the Port Trust to consider the representation in accordance with the Rules. Pursuant to the order passed by this Court, the Chennai Port Trust by proceeding dated 16.10.2019 directed the petitioner to obtain the Succession Certificate from the competent Court. Challenging the same, the present writ petition has been filed before this Court.

3.The learned counsel for the petitioner submitted that the Chennai Port Trust cannot insist for a Succession Certificate from the petitioner for the purpose of giving her share in the DCRG amount and GPF. The learned counsel submitted that the Chennai Port Trust (Pension) Regulations, 1987 itself provides for the manner, in which, the benefits will have to be settled. The learned counsel further submitted that the petitioner is entitled to receive 50% of the benefits being the mother of the deceased and the 4th respondent is entitled to receive 50%, being the wife of the deceased. The learned counsel therefore sought for interference with the impugned order passed by the 3rd respondent.

4.Per contra, Mr.Haja Mohideen Gisthi, learned counsel appearing on behalf of the Chennai Port Trust submitted that the deceased had submitted the nomination papers to the Chennai Port Trust and in the said nomination form, the deceased had shown his wife viz., the 4th respondent as the nominee to receive the benefits. As an alternate nominee, the name of the petitioner has been mentioned in the nomination form. The learned counsel submitted that the Chennai Port Trust can only handover the benefits to the nominee and thereafter it is for the petitioner and the 4th respondent to independently workout their remedy before the appropriate Court. The learned counsel submitted that the alternate nominee will come into play only if the nominee predecease the alternate nominee. In the present case, the nominee is very much alive and therefore the Chennai Port Trust cannot handover the benefits to the petitioner.

5.Mr.G.Gokul, learned counsel appearing on behalf of the 4th respondent adopted the arguments made by the learned counsel appearing for Chennai Port Trust. The learned counsel submitted that the 4th respondent who is the wife of the deceased is entitled to receive the benefits both as a nominee, as well as under the Chennai Port Trust (Pension) Regulations, 1987.

6.This Court has carefully considered the submissions made on either side and also the materials available on record.

7.It is clear from the nomination form that was submitted by the deceased that the 4th respondent has been shown as a

nominee for receiving the benefits. It is now a settled law that the employer has to handover the benefits to the person who has been named as a nominee and the employer cannot decide the inter se dispute between the petitioner and the 4th respondent. Even in the Pension Regulations, "Family" has been defined in Regulation No.50 (i), which clearly states that, it will mean a wife, only thereafter, other options are given. On the availability of the wife, she will be the only person entitled to receive the benefits.

8. Insofar inter se dispute between the petitioner and the 4th respondent is concerned, it has to be agitated before the appropriate forum and the Chennai Port Trust does not have any role to play with regard to the same.

9. In view of the above, this court is not inclined to entertain this writ petition and accordingly the same is dismissed. Liberty is given to the petitioner to workout her remedy independently against the 4th respondent in the manner known to law before the appropriate forum. No Costs.

Sd/-

Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Chairman,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.
2. The Secretary,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.
3. The Chief Mechanical Engineer,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

+1cc to Mr.K.Raja, Advocate, S.R.No. 103524
+1cc to Mr.S.Haja Mohideen, Advocate, S.R.No. 103257
+1cc to Mr.A.Maheshnath, Advocate, S.R.No. 103327

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