

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :28.11.2019
CORAM
THE HON'BLE MR.JUSTICE M.DHANDAPANI
W.P.No. 33307 of 2019

E.Chandra

..Petitioner

Vs

1. The State of Tamil Nadu rep.by
The Principal Secretary to Government,
Finance Department, Secretariat,
Chennai-600009.

2.The Secretary to Government
Labour and Employment Department
Secretariat,
Chennai-600009.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to Call for the records relating to the letter No.15875/OP1-2/2016-11dated 19.11.2019 by the second respondent on the legally untenable advice of the first respondent and quash the same and consequently direct the respondents to settle all the claims, retirement benefits and terminal benefits due to the nominees of Late M.Govindasamy along with 12% interest per annum from 31.10.2016 to date of payment within a stipulated time.

For Petitioner : Mr. K.S.Govinda Prasad
For Respondents : Mr.R.S.Selvam, GA

ORDER

Writ Petition is filed to issue a Writ of Certiorarified Mandamus to Call for the records relating to the letter No.15875/OP1-2/2016-11dated 19.11.2019 by the second respondent on the legally untenable advice of the first respondent and quash the same and consequently direct the respondents to settle all the claims, retirement benefits and terminal benefits due to the nominees of Late M.Govindasamy along with 12% interest per annum from 31.10.2016 to date of payment within a stipulated time.

2. Heard Mr. K.S.Govinda Prasad learned counsel appearing for the petitioner and Mr. R.S.Selvam, Government Advocate appearing for the respondents and perused the records.

3. The case of the petitioner is that the petitioner is a Class-II Legal Heirs of the deceased M. Govindasamy, who retired as Special Grade Office Assistant in Labour and Employment Department, Secretariat, Chennaidepartment. After the death of the said M.Govindasamy, the petitioner and 6 others, who are the sisters and brothers of the deceased M.Govindadsamy were made representation dated 31.10.2016 to the 2nd respondent, claiming to settle gratuity and other terminal benefits of their brother in their favour as they are the nominees of the deceased M.Govindasamy as per service records. However, the second respondent by letter dated 19.11.2019 called for the legal heir certificate to settle the claim equally to all brothers and sisters including one Elumalai who has not been nominated by their brother deceased M.Govindasamy. Challenging the same, the present writ petition is filed.

4. The learned counsel for the petitioner would submit since petitioner and her brothers and sisters except one Elumalai are the Class-II Legal heirs of the deceased M.Govindasamy as per service records, they are entitled to receive gratuity and terminal benefits of the deceased M.Govindasamy as per Rule 48 of the Tamil Nadu Pension Rules. The relevant portion is extracted below;

48 (1) (ii): the government servant has no family the nomination may be made in favour of a person or persons, or a body of individual, whether incorporated or not"

5. In view of above provision and also considering the claim of the petitioner that the deceased M.Govindasamy left nomination in favour of the petitioner and her sisters and brothers except one M.Elumalai, I am of the view that if such particulars are available in the service records, the petitioner is entitled to receive gratuity and other terminal benefits of deceased M.Govindasamy. सत्यमेव जयते

6. Accordingly, the writ petition is disposed of with the following directions;

- i. I am inclined to set aside the impugned order dated 19.11.2019.
- ii. The matter is remanded back to the authorities for fresh consideration.
- iii. Respondents are directed to verify the service records of the deceased M.Govindasamy as to whether the said Govindasamy nominated the petitioner and her sisters and brothers. If such nomination is available, the respondents are directed to act in accordance with law.

- iv.The petitioner is also permitted to approach the competent authority with regard to obtaining legal heir certificate and their entitlement.
- v. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
Finance Department, Secretariat,
Chennai-600009.

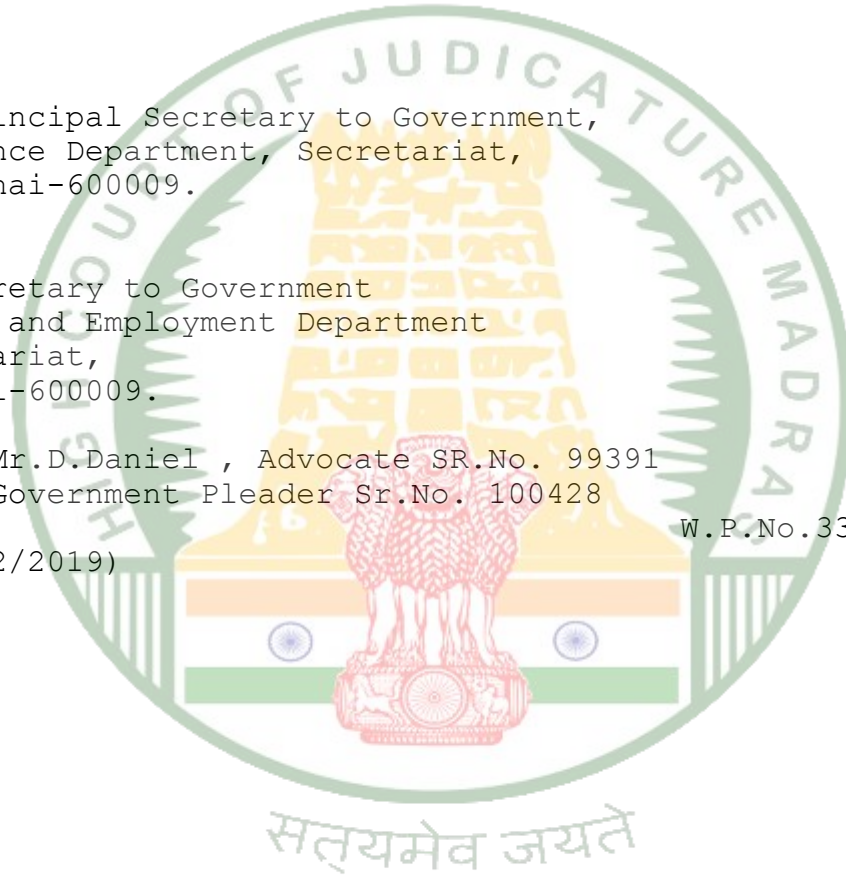
2.The Secretary to Government
Labour and Employment Department
Secretariat,
Chennai-600009.

+3ccs to Mr.D.Daniel , Advocate SR.No. 99391

+1 cc to Government Pleader Sr.No. 100428

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A.SK(02/12/2019)



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