

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.01.2019

CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3771 of 2004

Ettiammal (Deceased)

1.M.Palayam
(Substituted as Legal heir) ... Petitioner
as per order dt.17.1.2018 made in WMP.518/2018.

-Vs-

1.The Corporation of Chennai,
Rep. by its Commissioner,
Ripon Buildings, Chennai - 3.
2.The Assistant Executive Engineer,
Central Asphalt Plant,
Chetpet, Chennai - 31. ... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other appropriate Writ order to directing the respondents to pay the retirement and pensionary benefits payable to the death of my deceased brother Mr.P.Muthusamy, who worked as Maistry, Central Asphalt Plant, Chetpet, Chennai - 31.

For Petitioner : Mr.S.Kamalesh Kannan

For Respondents : Dr.C.Ravichandran

O R D E R

The relief sought for in this present writ petition is to direct the respondents to pay the retirement and pensionary benefits payable to the death of the deceased brother Mr.P.Muthusami, who was employed as Maistry, Central Asphalt Plant, Chetpet, Chennai - 31.

2.The writ petitioner is the sister of the deceased employee, who was employed in the Corporation of Chennai. The petitioner states that her brother late Sri.P.Muthusami was working as Maistry in Central Asphalt Plant at Chetpet, Chennai and he passed away on 20.02.1989, while he was in service. The petitioner claims that she is the sole legal heir of her brother. In view of the fact that the pensionary and retirement

benefits due to the deceased employee has not been settled in favour of the writ petitioner and the writ petitioner is constrained to move the present writ petition.

3. The learned counsel appearing on behalf of the respondent/Corporation disputed the contentions raised on behalf of the writ petitioner by stating that there are certain discrepancies in respect of the service records of the deceased employee Mr.P.Muthusami. In this regard, it is stated that one Mrs.Ettiammal (writ petitioner) who claimed to be the sister of the deceased P.Muthusami had applied for settlement of all the monetary benefits payable based on the relationship certificate issued by the Thasildar, Purasaiwalkam-Perambur Taluk along with the death certificate of Muthusami and Murugammal, 2nd wife of the Muthuswami.

4. In the nomination dated 22.10.1986, the deceased Muthuswami had shown Murugammal was aged about 35 years as his wife and Lakshmi aged about 5 years as his daughter. The said P.Ettiammal (now deceased) produced the death certificate dated 16.07.1987 of Smt.Murugammal in which the age of Smt.Murugammal was shown as 58 years. On account of the discrepancies in the death certificate of Smt.Murugammal, the respondent/Corporation was not in a position to settle the terminal and pensionary benefits of the deceased employee. In fact, the original writ petitioner late P.Ettiammal filed a succession certificate before the Corporation.

5. The respondent/Corporation is unable to proceed with the certificate issued, in view of the fact that in the original service records, the name of the daughter of the deceased employee is one Smt.Lakshmi, has been entered. When the name of the daughter has already been entered into service records, without verifying the particulars, whereabouts and details of the daughter of the deceased employee, the Corporation would not be in a position to settle the terminal and retirement benefits of the employee.

6. The original service records produced before this Court shows that Smt.Murugammal, wife age 35 years and Lakshmi, daughter aged about 5 years. This being the original entries made in the service records of the deceased employee late P.Muthusami, this Court is of an opinion, that the original writ petitioner Late Sri.Ettiammal, who is the sister of the deceased employee cannot have any claim for settlement of the retirement benefits due to the deceased employee. Thus, it is for the legal heirs to adjudicate the matter before the competent forum for the purpose of settling the legal heirship pending adjudication, the Corporation would not be in a position to settle the retirement benefits of the deceased employee. Thus,

the legal heirs of the original petitioner as well as the daughter of the deceased employee are entitled to redress their grievance in a manner known to Law. With these observations this writ petition stands dismissed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

kkn/ska

To

1.The Corporation of Chennai,
Rep. by its Commissioner,
Ripon Buildings, Chennai - 3.

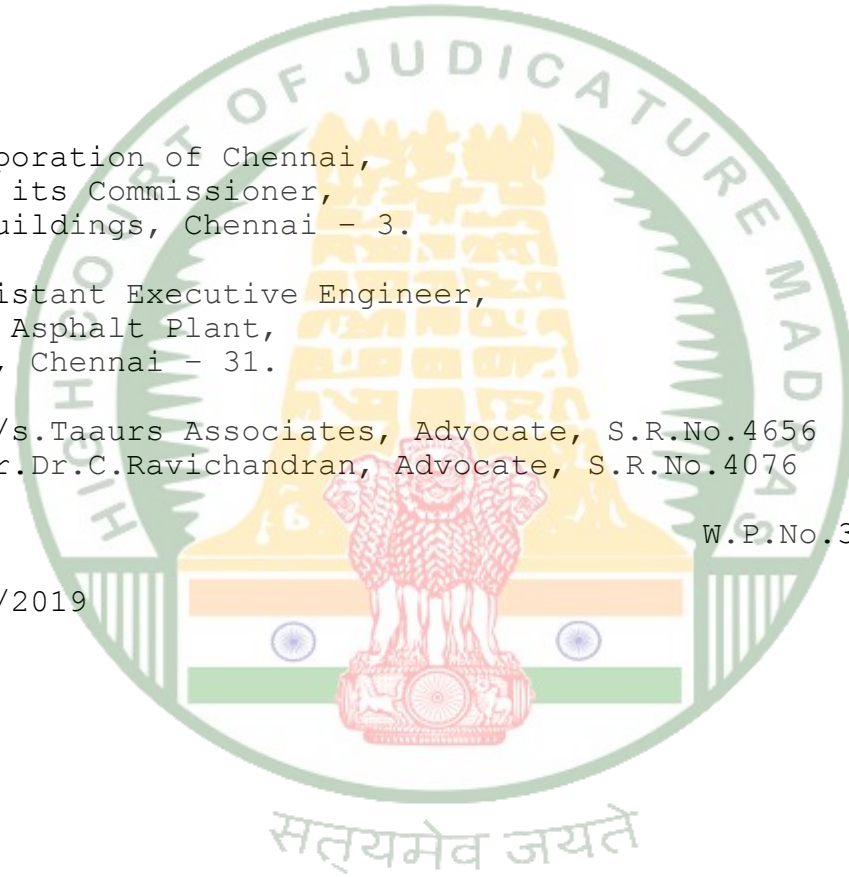
2.The Assistant Executive Engineer,
Central Asphalt Plant,
Chetpet, Chennai - 31.

+1cc to M/s.Taurs Associates, Advocate, S.R.No.4656

+1cc to Mr.Dr.C.Ravichandran, Advocate, S.R.No.4076

W.P.No.3771 of 2004

rrs 26/02/2019



WEB COPY