



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.A.(MD) No.330 of 2019

AND

C.M.P.(MD) No.2619 of 2019

IN

WP(MD)No.2325 of 2015

M.Innasiyammal

... Appellant/Petitioner

-vs-

1.The Chief Internal Audit Officer,
Tamilnadu Generation and Distribution
Corporation Ltd.,
Secretariat Branch, 144, Anna Salai,
Chennai - 600 002.

2.The Superintendent Engineer,
Administration,
Tuticorin Thermal Power Station,
Tuticorin.

... Respondents/Respondents

PRAYER: Appeal is filed under Clause 15 of Letters Patent, to set aside the order passed by this Court in W.P.(MD) No.2325 of 2015 dated 29.11.2018.

Prayer in WP(MD). 2325/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to disburse the Petitioner s husband s family pension to the Petitioner by considering her representation dated 14.02.2015 and as such further order or other suitable orders as this Honourable Court may deem fit.

For Appellant : Mr.V.Thirumal

For Respondents : Mr.S.M.S.Johny Basha

JUDGEMENT

[Judgment of the Court was made by S.S.SUNDAR, J.]

This writ appeal is directed against the order passed by the learned Single Judge of this Court dated 29.11.2018 made in W.P.(MD)

No.2325 of 2015.

2.The appellant is the second wife of one Mr.S.Karuppasamy, who was working in the second respondent Corporation. The husband of the appellant got retired from service under voluntary retirement scheme on 30.11.1998. After retirement, the appellant's husband received monthly pension promptly. However, on 12.05.2006, the appellant's husband died leaving behind the appellant and their daughter one Mariammal.

3.Apart from her daughter, the husband of the appellant also had two other daughters viz., Mallika and Gandhiammal through his first wife viz., Mariammal. It is not in dispute that the appellant's first wife died on 14.12.1991. The records would clearly show that the daughter of the appellant as well as the daughters of the appellant's husband through his first wife had no objection for the appellant to get family pension. They have also given no objection letter to the appellant. They have also filed petition before this Court to implead themselves as parties, just to show that they have no objection to grant family pension to the appellant.

4.Despite all these, the learned Single Judge dismissed the writ petition only on the ground that there is a dispute with regard to the sharing of family pension and that such family dispute cannot be resolved in a writ petition under Article 226 of Constitution of India. Thus giving liberty to the appellant to work out her remedy by filing a suit or other proceedings in the manner known to law, the writ petition was dismissed.

5.The learned Judge has referred to the fact that the daughters of her husband born through his first wife have filed a petition to implead themselves as parties. From this, the learned Single Judge jumped into a conclusion that there is dispute. However, the affidavit filed in support of the petition would clearly indicate that their intention was to say no objection before this Court to the appellant to get family pension fully.

6.In these circumstances, we find that the order passed by the learned Single Judge is erroneous and the learned Single Judge has not considered the real issue and the materials that have been produced before this Court even before the hearing. Therefore, this Court is of the view that this writ appeal is liable to be allowed.

7.Accordingly, this writ appeal is allowed. The order dated 29.11.2018 passed by the learned Single Judge in W.P.(MD) No.2525 of 2015 is hereby set aside. The respondents are directed to implement this order forthwith by granting family pension in favour of the appellant and the benefits that is available right from the date of death of the appellant's husband. The entire process has to be done within a period of two weeks from today. No costs. Consequently, connected miscellaneous petition is closed.

<https://hcservices.ecourts.gov.in/hcservices/>

8.Post the matter after two weeks for compliance, failing



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which, the Chairman, TANGEDCO, Chennai shall appear before this Court on that day.

Sd/-

Assistant Registrar (AS)

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// True Copy //

Sub Assistant Registrar (CS)

TO

1.The Chief Internal Audit Officer,
Tamilnadu Generation and Distribution
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Secretariat Branch, 144, Anna Salai,
Chennai - 600 002.

2.The Superintendent Engineer,
Administration,
Tuticorin Thermal Power Station,
Tuticorin.

Copy to:

The Chairman,
TANGEDCO,
Anna Salai, Chennai

+1cc to Mr.V.Thirumal, Advocate, SR.No.53926

W.A. (MD) No.330 of 2019

AND

C.M.P. (MD) No.2619 of 2019

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14.03.2019

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