



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.09.2019
CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P. (MD)No.7356 of 2014
and
M.P. (MD)Nos.2 and 3 of 2014

1.Banumathi
2.Hariharan

... Petitioners

vs.

1.The State of Tamil Nadu
represented by its Agricultural Production
Commissioner and Principal Secretary
to Government,
Fort St.George, Chennai.

2.The Joint Director of Agriculture,
Agriculture Department,
Kaattuthottam, Tanjore - 613 501.

3.C.Rajumohan

... Respondents

(R3 was impleaded as per order of this Court in M.P.(MD)No.1 of 2014, dated 02.08.2019)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned proceedings dated 30.01.2014, in No.A3/4111/2010 of the second respondent and quash the same and consequently to direct the second respondent to disburse the retiral benefit of deceased Natarajan to the first petitioner as per the earlier order dated 17.10.2013, passed by the second respondent within the time fixed by this Court.

For Petitioners	: Mr.AL.Kannan
For R1 and R2	: Mr.M.Jeyakumar Additional Government Pleader
For R3	: Mr.PT.S.Narendravasan

O R D E R

This Writ Petition is filed challenging the order passed by the second respondent / Joint Director, Agriculture Department, Thanjavur, dated 30.01.2014 and to direct the second respondent to disburse the retirement benefit of deceased Natarajan to the first



petitioner, as per the earlier order, dated 17.10.2013 passed by the second respondent.

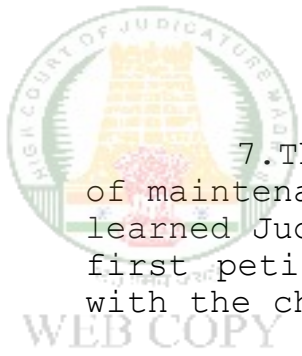
2.The first petitioner is the wife of Late Thiru.Natarajan, who was working as an Agricultural Officer. The said Natarajan was allowed to retire from service with effect from 30.06.2010 without prejudice to the disciplinary proceedings pending against him. Even before initiating further action, the said Natarajan died on 20.05.2011. It is also stated that the disciplinary proceedings initiated against the petitioner's husband was dropped.

3.Admittedly, the first petitioner's husband died on 24.05.2011 leaving behind his wife, the first petitioner and a son, the second petitioner and a daughter. After the death of the first petitioner's husband, an application was filed by the petitioners for getting retirement benefits of Mr.Natarajan. Though the said Natarajan, nominated his mother as a nominee, the mother of Natarajan was also predeceased him and therefore, it is only the wife and the children are Class-I legal heirs of Mr.Natarajan.

4.It appears that the petitioners along with minor daughter of Natarajan, filed a petition in M.C.No.06 of 1993 before the Judicial Magistrate Court No.II, Ramanthapuram, for maintenance against Mr.Natarajan. Since the first petitioner was living separately from the husband, maintenance was refused to the wife. However, taking into account that Mr.Natarajan is liable to maintain the minor children, the petition was ordered by directing the first petitioner's husband to pay a sum of Rs.400/- per month as maintenance.

5.The application for disbursement of retirement benefits filed by the petitioners was pending before the second respondent and ultimately, by impugned order, the second respondent rejected the application for disbursement retirement benefits to the petitioners on the ground that in M.C.No.06 of 1993, the learned Judicial Magistrate No-II, Ramanathapuram, has given a verdict that the first petitioner herein is not entitled to maintenance. It is against the order of second respondent, the above writ petition is filed by the wife and son of deceased Natarajan.

6.Going by the admitted facts, the relationship between the deceased Natarajan and the petitioners is established beyond doubt. Even in the proceedings relied upon by the second respondent, the relationship is admitted. The first petitioner is the wife and the second petitioner is the son of deceased Natarajan. The legal heir certificate also indicates that the petitioners are wife and son of late Natarajan. It is also admitted that the mother of Natarajan predeceased her son, Natarajan and that the petitioners and daughter alone are the Class-I legal heir of the deceased Natarajan.



7.Though the first petitioner is not entitled to the relief of maintenance during the life time of husband as per the verdict of learned Judicial Magistrate No.II, Ramanathapuram, the status of the first petitioner as wife continues and the first petitioner along with the children are the legal heir of the deceased Natarajan.

8.The learned Counsel for the third respondent submitted that the petitioners have filed Succession Original Petition and that therefore, the second respondent may be directed to disburse the retirement benefits to the petitioners subject to the outcome of Succession Original Petition. The third respondent is only the brother of Mr.Natarajan, who has no semblance of right to lay a claim, when Class-I legal heirs of the deceased are available. Even if there is a dispute with regard to the status, the children of Mr.Natarajan cannot be denied the retirement benefits. It is not the case of the third respondent that the marriage was dissolved by a process known to law.

9.In such circumstances, absolutely, there is no impediment for the second respondent to disburse the retirement benefits to the petitioners. Merely because, a Succession Original Petition filed by the petitioners is pending, this Court is unable to subscribe to the view that the disbursement of retirement benefits should wait till the Succession Original Petition is decided in one way or other. As long as, the status is not questioned before the second respondent, there is no way for the second respondent to keep the matter pending, as he is bound to discharge his duty. Accordingly, this writ petition is allowed as prayed for. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Agricultural Production Commissioner
and Principal Secretary to Government,
The State of Tamil Nadu,
Fort St.George, Chennai.
- 2.The Joint Director of Agriculture,
Agricultural Department,
Kaattuthottam, Tanjore - 613 501.



+1 CC to Mr.PT.S.NARENDRAVASAN, Advocate (SR-86530[F] dated
13/09/2019)
+1 CC to SPL GP (SR-86923[F] dated 16/09/2019)

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