

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10886 of 2013

Mrs.K.Omana

... Petitioner

Vs.

1.The Chairman,
T.N.E.B.,
Mount Road,
Anna Salai,
Chennai - 600 002.

2.The Chief Internal Auditor,
Tamil Nadu Electricity Board,
Mount Road,
Chennai - 600 002.

3.The Manager,
Indian Overseas Bank,
Palghat Branch,
No.10, 260, G.B.Road,
Palakkad - 678 001,
Kerala State.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the third respondent to recredit the withheld amount 31,411/- to the 2nd respondent with 18% interest and direct the 2nd respondents to pay the withheld amount a sum of Rs.31,411/- to the petitioner with 18% interest.

For Petitioner : Ms.N.Beulah John Selvaraj

For Respondents : Mr.Karthick Rajan

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the third respondent to recredit the withheld amount Rs.31,411/- to the second respondent with 18% interest and to direct the second respondent to pay the withheld amount a sum of Rs.31,411/- to the petitioner with 18% interest.

2.The case of the petitioner is that the petitioner's husband was employed as Driver in the Tamil Nadu Electricity Board, Chennai. He retired from service on 30.06.1996 and died on 06.05.2003. Thereafter, since family pension was not paid to the petitioner, she filed W.P.No.8787 of 2006 before this Court and after the order of this Court made in W.P.No.8787 of 2006 dated 27.03.2007, family pension was paid to the petitioner, however, a sum of Rs.31,411/- was withheld. Aggrieved by the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner would submit that the second respondent issued Pension Payment Order dated 31.05.2007 bearing No.20474 in favour of the petitioner, wherein, it is stated 'withheld amount is Rs.31,411/-'. The learned counsel would further submit that since the said amount has been withheld without any reason for a long time, the same may be paid to the petitioner along with interest.

4.The learned counsel appearing for the respondent would submit that the petitioner's husband died on 06.05.2003. Immediately after the death of the petitioner's husband, the petitioner is not entitled to pension and she is entitled to only family pension. The death of the petitioner's husband was not intimated to the second respondent and pension was continuously credited. When the said fact came to light, action was immediately taken to stop the monthly credit of pension in the account maintained in the third respondent Branch.

5.The learned counsel appearing for the respondents would further submit that the second respondent wrote a letter to the third respondent Branch to recredit the amount of Rs.31,411/- which is the excess pension paid from March, 2003 to February, 2004 and credited to the pensioner's account after his death. However, till date, the third respondent Bank has not reccredited the amount.

6.The learned counsel appearing for the respondents would further submit that since there was confusion as to the petitioner's entitlement to family pension, it was not paid to the petitioner. Hence, the petitioner filed W.P.No.8787 of 2006 before this Court and as per the direction of this Court made in W.P.No.8787 of 2006 dated 27.03.2007, the second respondent issued Pension Payment Order dated 31.05.2007 bearing No.20474 in favour of the petitioner withholding the amount of Rs.31,411/-.

7.The learned counsel appearing for the respondents would further submit that if the petitioner has got any grievance, she has to challenge the order dated 31.05.2007 and without

challenging the said order, filing this writ petition is unsustainable one.

8.At this juncture, the learned counsel appearing for the petitioner seeks the permission of this Court to file a fresh writ petition challenging the order dated 31.05.2007.

9.Considering the submissions made on either side, this Court is of the opinion that without challenging the order dated 31.05.2007, filing the writ petition for the aforesaid relief is unsustainable one. Hence, the relief sought for in this writ petition cannot be granted.

10.This writ petition is accordingly dismissed. However, liberty is granted to the petitioner to work out her remedy in the manner known to law by challenging the order dated 31.05.2007, if so advised. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Chairman,
T.N.E.B.,
Mount Road, Anna Salai,
Chennai - 600 002.
- 2.The Chief Internal Auditor,
Tamil Nadu Electricity Board,
Mount Road, Chennai - 600 002.

- 3.The Manager,
Indian Overseas Bank,
Palghat Branch,
No.10, 260, G.B.Road,
Palakkad - 678 001, Kerala State.

+1 cc to M/s.Karthik Rajan, Advocate Sr.No. 26011

W.P.No.10886 of 2013

SSV(CO)
RMP (02/09/2020)