

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :29.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 13391 of 2013
and
M.P.No.1 of 2013

M.SARALA

.. Petitioner

Vs.

1.The District Collector
Chennai District, Chennai.

2.The Personal Assistant
(General) Collector of Chennai,
Chennai-1

3.The Personal Assistant
(Accounts) Collector of Chennai,
Chennai-1

4.The Pay and Accounts
Officer (South) Chennai-35

5.The Thasildhar
Mylapore, Triplicane Taluk,
Chennai-28

6.The Thasildhar
Mambalam - Guindy Taluk,
Chennai-78

7.The Accountant General
(A & E) Tamilnadu,
261, Anna Salai,
Chennai- 18.

..Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, directing the respondents to pay the salary of the petitioner's husband Manivannan from 1.3.1995 till his date of retirement on 30.6.2008 direct the respondents to pay other retirement benefits including gratuity provident fund etc. direct the respondents to pay the accrued pension of Manivannan from 30.6.2008 till his death on 1.7.2010 and also direct the

respondents to pay the family pension to the petitioner from 1.7.2010 forthwith with interest at 18% and continue to pay the same in future.

For Petitioner : Aishwarya for
M/S.N.Suresh

For Respondents: Mr.A.N.Thambidurai, Spl.G.P for RR1 to 6
: M/S.J.Sreevidya, A.G.S.C, for R7

ORDER

This petition has been filed by the petitioner to direct the respondents to pay the salary of the petitioner's husband Manivannan from 1.3.1995 till his date of retirement on 30.6.2008 and direct the respondents to pay other retirement benefits including gratuity, provident fund, etc., and to direct the respondents to pay the accrued pension of Manivannan from 30.6.2008 till his death on 1.7.2010 and also direct the respondents to pay the family pension to the petitioner from 1.7.2010 forthwith with interest at 18% and continue to pay the same in future.

2. It is the case of the petitioner is that her husband originally was appointed as Village Administrative Officer at Mylapore-Triplicane Taluk in the year 1995 and thereafter petitioner's husband was transferred and posted as Village Administrative Officer at Mambalam, Guindy Taluk, vide proceedings dated 29.01.1996. The petitioner's husband retired from service on 30.06.2008. after attaining the age of superannuation. The grievance of the petitioner is that even after retirement of her husband, he was not provided any the pension and other retirement benefits for which he made several representations to the respondents without eliciting any response. The petitioner's husband died on 1.7.2010 without receiving any benefits from the respondents. After his death, the petitioner made representations repeatedly to the respondents, but no order was passed. In fact, till the filing of the writ petition, the representation was not considered and no order has been passed. Hence the present writ petition was filed with above said prayer.

3. Though very many grounds have been raised in these writ petitions, however, when the matter is taken up, learned counsel appearing for the petitioners submitted that it would suffice if this Court directs the respondents to consider the petitioner's representation dated 22.12.2009 and also direct the respondents to provide the retirement benefits and arrears of pension within a particular time frame as fixed by this Court.

4. Per contra, learned Special Government Pleader appearing for the respondents 1 to 4 and learned counsel appearing for the 7th respondent filed a detailed counter affidavit, denying all the averments made in the affidavit and contented that the petitioner is the wife of the one T.Manivannan (deceased) and that he was a chronic absentee. Though he was working as Village Administrative Officer, he had taken leave too often and that he had not put in the requisite qualifying service of 10 years for the purpose of payment of pension. Similarly, the petitioner's husband has not put in the requisite qualifying service of 10 years for the purpose of getting gratuity. Apart from this, the petitioner's husband, while in service was suspended from service with effect from 23.3.2006 and charges were levelled against him, which resulted in imposition of punishment of stoppage of increment for 3 years with cumulative effect. Hence the prayer was made in the writ petition cannot be granted, and prays for dismissal of the petition.

5.This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

6. Though very many contentions have been raised by the respondents, however, it is borne out by record, which is not disputed by the respondents that representations have been filed by the petitioner's husband, as well as by the petitioner, claiming the retirement and pensionary benefits, however, no order has been passed on the said representation till date. It is the minimum requirement of law that a representation submitted should receive a response so as to entail the representee to resort to such legal recourse within the framework of law. In the above backdrop, this Court, without expressing any opinion on the merits of the issue deems it appropriate to direct the 1st respondent to consider the petitioner's representation dated 22.12.2009, for payment of retirement and pensionary benefits and pass orders in accordance with law within a period 3 months, from the date of receipt of copy of this order. On receipt of response from the respondents on the petitioner's representation, the petitioner is at liberty to work out her remedies in a manner known to law with respect to the amount alleged to be due to her.

7.With the above observation, this writ petition is disposed of. Consequently connected miscellaneous petition is closed. However there shall be no order as to costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector
Chennai District, Chennai.
- 2.The Personal Assistant
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Chennai-1
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- 7.The Accountant General
(A & E) Tamilnadu,
261, Anna Salai,
Chennai- 18.

+1 cc to M/s.J.Sreevidya, advocate,sr.31975

+1 cc to Government Pleader,sr.31946.

Vsnii(co)
krd 2/11

W.P. NO.13391 of 2013

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