

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.NO.16390 OF 2009

C.Anbazhagan

... Petitioner

-vs-

1.The Director of Pensions,
259, Anna Salai, 3rd Block,
2nd Floor, Teynampet,
Chennai-600 006.

2.The Assistant Treasury Officer,
Sub-Treasury, Polur,
Thiruvannamalai District - 606 803.

... Respondents

PRAYER:

Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to disburse the Life Time Arrears payable in respect of the deceased Government Employee, namely, Mrs.Rajeswari (PPO No.A901072/Edn) to the petitioner.

For Petitioner : Mr.P.Mohanraj

For Respondents: Mr.A.Zakir Hussain
Govt. Advocate

O R D E R

The Writ Petition has been filed for a direction to the respondents to disburse the Life Time Arrears payable in respect of the deceased Government Employee, namely, Mrs.Rajeswari (PPO No.A901072/Edn) to the petitioner.

2. It is the case of the petitioner that his sister, namely, Mrs.Rajeswari worked as Secondary Grade Teacher, Panchayat Union Elementary School, Velanandal, Thiruvannamalai District and voluntarily retired from service on 30.09.1993 and she had executed a Will dated 27.07.1980 in Doc.No.37/1980 before the Assistant Registrar, Kadaladi, Thiruvannamalai District in respect of her estate in favour of the petitioner, including receipt of her terminal benefits, as she had no issues and her

husband also deserted her long back. It is the further case of the petitioner that his sister died on 14.12.2008 and after her death, he made an application to the 2nd respondent along with all necessary documents, with regard to disbursement of Life Time Arrears due to her sister and, however, the 2nd respondent insisted for a Court's order for such disbursement, despite the fact that the Village Administrative Officer had issued a certificate on 29.06.2009 stating that his sister was under his care and custody. It is also the case of the petitioner that aggrieved by the act of the 2nd respondent, he approached the 1st respondent with the similar request and there was no response from the 1st respondent in this regard. Hence, the petitioner is before this Court.

3. The 2nd respondent filed a counter affidavit dated 19.11.2009, wherein it was stated that the pensioner, namely, Mrs. Rajeswari did not file any nomination in Form 'A' at the time of her retirement on 30.09.1993 and if there is a nomination, there is no need to produce legal heir certificate and no objection certificate from other family members and only production of death certificate is adequate for the payment of Life Time Arrears. It was further stated that the petitioner does not come under the definition of family member of the deceased pensioner, since the pensioner was a married Hindu Woman and the Will dated 27.07.1980 executed by the pensioner, favouring the petitioner can be used only for the purpose of personal properties of the pension and not for the disbursement of pensionary benefits. It was also stated that it is an incorrect statement that the petitioner had applied for payment of Life Time Arrears and submitted documents, rather his wife alone applied for the same. In the counter, it was stated that as per the Indian Evidence Act, if a person's whereabouts was not known for 7 years and the concerned Court declares such factum, then only it can be construed that the person is dead and the petitioner cannot himself declare that the husband of his sister was dead.

4. Heard the learned counsel on either side and also perused the material documents available on record.

5. The petitioner has sought for disbursement of Life Time Arrears, payable to the pensioner/his deceased sister, to him on the ground that she was taken care of by him and the husband of her sister deserted her in the year 1965. According to the petitioner, during her life time, a Will was executed by the pensioner, wherein it was categorically stated that the petitioner will have to perform her last rituals and all her properties and benefits shall have to be paid to her brother. This Court cannot go into these factual aspects and the petitioner will have to obtain a legal heirship certificate from

the appropriate authority to the effect that he is a Class-II heir of the pensioner and also get an order from the appropriate Forum with regard to the Will and thereafter, based on that, he has to agitate his remedy. Merely because there is a Will, said to be executed by his sister, it will not inure to the benefit of the petitioner, unless or otherwise the same is supported by a valid document, viz., Court Order or other proceedings.

6. Admittedly, the petitioner has not produced any such valid document in support of his claim and when it was clearly mentioned in Paragraph Nos.6 and 9 of the counter affidavit that the pensioner had not filed any nomination in favour of the petitioner and that he is not an eligible nominee of the deceased pensioner for getting family pension, this Court cannot issue a blanket direction to the respondents for disbursement of the Life Time Arrears to the petitioner, as this Court cannot go into the factual aspects of the matter. Hence, the Writ Petition is disposed of, with liberty to the petitioner to agitate his remedy before the appropriate Forum in accordance with law. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Director of Pensions,
259, Anna Salai, 3rd Block,
2nd Floor, Teynampet,
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- 2.The Assistant Treasury Officer,
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PM(CO)
CS/02/12/2020