



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.26494 of 2009

and

M.P.No.1 of 2009

Saraswathi

... Petitioner

vs.

1. The General Manager,
State Express Transport Corporation.,
Pallavan Salai,
Chennai - 600 002.

2. The Depot Manager,
State Express Transport Corporation,
Koyambedu,
Chennai - 600 107.

3. K.Kavitha

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the 1st and 2nd Respondents to settle all the service benefits of the Petitioner's son to the Petitioner.

For Petitioner : Mr.V.Manisekaran

For Respondents 1 & 2: Mr.K.Kathiresan

For 3rd Respondent : No appearance

O R D E R

Petitioner has come up with the present Writ Petition seeking a direction to the 1st and 2nd Respondents to settle all the service benefits of her deceased son, to her.

2. According to the Petitioner, her son G.Krishnamurthy joined the services of the 1st Respondent/Corporation as 'Conductor' and while in service, he died on 23.03.2008 due to an accident, leaving behind him, his mother, the Petitioner



herein and his wife, the 3rd Respondent herein, as his legal heirs. After the death of his son, the Petitioner, out of sympathy, gave 'No Objection Certificate' to Respondents 1 and 2 herein, to settle all the service benefits and Pension of her son, to the 3rd Respondent herein. Pursuant thereto, the Tahsildar, Tambaram issued Legal Heir Certificate on 03.05.2008, to the effect that, the Petitioner and the 3rd Respondent herein are the legal heirs of the deceased Krishnamurthy. Thereafter, all the service benefits of the Petitioner's son were settled to the 3rd Respondent herein.

3. However, to her shock and surprise, the Petitioner came to know that, the 3rd Respondent had married one Saravanan on 21.10.2009. According to the Petitioner, after re-marriage, the 3rd Respondent ceases to be the legal heir of the deceased Krishnamurthy. Hence, she sent a representation dated 09.12.2009 to the Respondents to settle all the service benefits of her deceased son, in her favour.

4. Heard the learned counsel for the parties and perused the material documents available on record.

5. It is not in dispute that, the Petitioner's son died while in service. When the deceased Krishnamoorthy was alive, in his Service Records, he has nominated his wife, i.e. the 3rd Respondent as his Pensioner. In terms of Tamil Nadu State Transport Corporation Employees' Pension Fund Rules, an employee's wife and children alone are entitled to pension and his mother will be entitled to only a share in the Gratuity amount.

6. In the case on hand, pension was paid to the 3rd Respondent, wife of the deceased, till her re-marriage. It was pointed out that, the 3rd Respondent has no issues through her first marriage. Though the Petitioner, who is the mother-in-law of the 3rd Respondent had given 'No Objection Certificate' for disbursing terminal benefits of her deceased son, to the 3rd Respondent, the latter had left the Petitioner in lurch. After her re-marriage, the 3rd Respondent ought to have parted with at least 50% of the Gratuity amount and other emoluments to the Petitioner. Hence, I find much force in the contention of the learned counsel for the Petitioner.

7. This Court is of the view that, the Petitioner is entitled to the relief sought for. Accordingly, the Petitioner would be entitled to 50% share of the Gratuity, Provident Fund, if applicable and also Leave salary and other terminal benefits of her deceased son, except Pension. The Petitioner can claim 50% of the said benefits from the 3rd Respondent and the question of laches cannot be put against the Petitioner for claiming the said benefits from the 3rd Respondent, since the Respondent/Transport Corporation had already discharged their liability by paying the entire benefits of the deceased Krishnamurthy to the 3rd Respondent herein and they cannot be blamed at all. However, they are liable to be impleaded as a



party in any proceedings to be initiated by the Petitioner, in case, the 3rd Respondent refuses to part with 50% of the terminal benefits of the deceased, to the Petitioner.

8. It is needless to mention that, if the 3rd Respondent refuses to part with 50% of the terminal benefits of the deceased, to her mother-in-law, who is the Petitioner herein, movable and immovable properties of the 3rd Respondent can be attached towards payment of the same. The 3rd Respondent is expected to furnish details of Gratuity, Leave Salary and all other terminal benefits including Pension received so far, to the Petitioner, as the latter is entitled to a share in the same, barring Pension.

The Writ Petition is allowed with the above direction and observations. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

(aeb/jas)

To:

1. The General Manager,
State Express Transport Corporation.,
Pallavan Salai,
Chennai - 600 002.
2. The Depot Manager,
State Express Transport Corporation,
Koyambedu,
Chennai - 600 107.

+1 cc to M/s.V.Manisekaran ,Advocate Sr.No. 30673

+1 cc to M/s.K.Kathiresan ,Advocate Sr.No. 30694

W.P.No.26494 of 2009
and
M.P.No.1 of 2009

PP(CO)
RMP(01/12/2020)