

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :10.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 20105 OF 2013

Tmt. N.D.Kalyani

.. Petitioner

- Vs -

1. The Deputy Accountant General (Pension)
O/o Principal Accountant General,
No.361, Anna Salai, Chennai 600 018.
2. The Director of Public Health and Preventive Medicine,
No.359, Anna Salai, Chennai 600 006.
3. The Director of Public Health and Primary Health
No.359, Anna Salai,
DMS complex, Teynampet,
Chennai 600 006.
4. The Joint Director of Health Services,
Vellore, Vellore District, Tamil Nadu.
5. The Deputy Director of Health Services,
Tirupattur, Vellore district, Tamil Nadu 635 601.
6. The Medical Officer,
Government Primary Health Centre,
Kallapadi 632 601.

.. 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 implement the orders passed in O.P.No.218/2005 dated 17.09.2009 on the file of this Court with regard to the disbursement of 1/3rd share of terminal benefits payable to the parents of the petitioner and all consequential benefits.

For Petitioner : No appearance

For Respondents: M/S.T.S.Selvarani, S. C., For R1
: Mr.P.Chinnadurai, Spl.G.P for R2

ORDER

This writ petition has been filed by the petitioner to direct the respondents to implement the orders passed in O.P.No.218/2005 dated 17.09.2009 on the file of this Court with regard to the disbursement of 1/3rd share of terminal benefits payable to the parents of the petitioner and all consequential benefits.

2. It is the case of the petitioner that his brother, Late Dr.S.Sekaran, worked as Medical Officer in the 5th respondent Primary Centre, Kallapadi, under the control of the respondents 2 to 4 herein, for over 25 years. He died intestate while in service on 20.8.2003 at C.M.C. Hospital, Vellore. It is the averment of the petitioner that his brother did not marry during his life time and he died as a bachelor. The petitioner's parents namely M.Srinivasan and S.Pappammal are entitled to succeed to the estate of her brother Dr.S.Sekaran after his death. Hence her parents filed O.P.No.218 of 2008 before this Court under Section 372 of the Indian Succession Act for the issuance of a Succession Certificate in respect of Dr.S.Sekaran, who died intestate. It is alleged that Smt.M.Stella Manohari applied for the terminal benefits of Dr.Sekaran as his wife. Immediately her parents made a criminal complaint against the said Stella Manohari and also sent a representation dated 11.4.2004 to the Government stating that her parents were only the legal heirs of her deceased brother. The Department had informed her parents that in order to succeed to the benefits of Dr.S.Sekaran her parents must produce a Succession Certificate; thereby her parents filed O.P.No.218/2005 before this Court and this Court by its order dated 17.09.2009 allowed the petition and passed an order directing grant of succession certificate allocating 1/3rd share to her parents and 2/3rd share to the above said Stella Manohari and her minor son. Thereupon in terms of the schedule set out thereunder, 100% FP and 2/3rd of DCRG were authorised to Smt.Stella Manohari, wife and 1/3rd share of DCRG amounting to Rs.1,53,893/- was authorized to Smt.S.Pappammal, mother of the deceased Government Servant as his father had already expired on 8.1.2010. The DCRG authorization for Rs. 1,53,813/- having been issued on 4.1.2012 was returned without making any payment as Smt.Pappammal had expired on 30.5.2012 and the petitioner being the legal heir of Late Smt.S.Pappammal is entitled to the same. The grievance of the petitioner is that the order passed in the O.P.No.218/2005 dated 17.09.2009 has become final, even thereafter the 1st respondent has not disbursed the amount in terms of the above original petition. Pending payment, both her parents passed away and the petitioner is the legal heir of the said Srinivasan and Pappammal and, therefore, entitled to

receive the amount. In spite of several representations made by her enclosing the succession certificate and no objection certificate obtained from her sister and brother, the amount has not been disbursed in favour of the petitioner, which prompted the petitioner to file the present petition.

3. Learned counsel appearing for the 1st respondent reiterated the stand taken by the respondents in the counter and submitted that the petitioner being not a beneficiary and no succession certificate has been issued by this Court in favour of the petitioner, the benefits could not be paid to the petitioner.

4. Heard the contentions advanced by the learned counsel on either side and perused the materials available on record.

5. The facts in the present case are not in dispute. A perusal of the materials reveal that the petitioner's parents were entitled to 1/3rd share on the basis of the succession certificate issued by this Court. However, before the payment could be made out to them, the parents of the petitioner passed away leaving behind her and her sister and brother as the legal heirs. Legal heir certificate has also been produced by the petitioners to claim the said amount. In spite of the same, the respondents have not paid the amount due to them. Though it is the case of the respondents that no succession certificate have been produced by the petitioner to show entitlement to succeed to the estate of her parents, however, this Court is at a loss to understand as to the necessity for obtaining a succession certificate. It is not the case of the respondents that the petitioner is not the legal heir of Srinivasan and Pappammal or that some other person has claimed to be the legal heir. When the legal heir certificate is not disputed, the necessary corollary that follows is that the amount due to the said Srinivasan and Pappammal by virtue of the succession certificate issued to them by this Court, definitely enures to the benefit of the petitioner. No succession certificate is necessary for the petitioner to claim the amount due to her parents, by virtue of the succession certificate obtained by them. In the above circumstances, the prayer of the petitioner for payment out of the amount due and payable to her parents deserves to be acceded to.

6. For the reasons aforesaid, the 1st respondent is directed to disburse the 1/3rd share of the terminal benefits payable to the parents of the petitioner to the petitioner, within a period of three months from the date of receipt of copy of this order. The writ petition stands allowed with the aforesaid observation and direction. It is open to the respondents to call upon the other legal heirs to satisfy themselves about the no objection

issued to the petitioner before disbursing the amount in favour of the petitioner. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Accountant General (Pension)
O/o Principal Accountant General,
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+1cc to the Government Pleader, Sr.No.29724

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