

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.02.2020
CORAM
THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH
WP.No.3645 of 2020
and
WMP.No.4293 of 2020

Mrs.P.Devi

.. Petitioner

- Vs -

The Senior Deputy Manager,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai,
Chennai-600 002.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari Mandamus, calling for the records relating to the impugned letter of the respondent dated 14.1.2020 made in Letter No. 25859 / Sapi (Nee. Na)5/ Ma.Po.Ka/2019 quash the same and consequently directing the respondent herein to sanction all Death cum Retirement Gratuity and other attendant benefits on account of the death of Mr. K.B. Prakash Rao (employee token No. D 14514) and also sanction family pension to the petitioner from 24.12.2001 the date on which the employee died.

For Petitioner : Mr.C.Sivanesan

For Respondent : Mr.K.Moorthi
Standing Counsel

O R D E R

On the consent given by both sides, the main writ petition itself has been taken up for final hearing.

2. This writ petition has been filed challenging the impugned letter dated 14.01.2020, rejecting the claim made by the petitioner, who had sought for the pensionary benefits of her deceased husband, who was working in the respondent-Transport Corporation.

3. The case of the petitioner is that her husband was working as a driver in the Transport Corporation and his retirement fell due on 30.04.2024. He died on 06.12.2001 while in service. He left behind the petitioner, his two children and his mother as his legal representatives. Subsequently, his mother also died in the year 2017.

4. The petitioner had made a claim seeking for the benefits of the deceased employee and the same has been rejected by the respondent by impugned letter dated 14.01.2020 on the main ground that the deceased employee had more than one wife and therefore, the petitioner has to go before a Competent Civil Court and get a decree for declaration and only thereafter, the claim made by the petitioner will be considered. Aggrieved by the same, the present writ petition has been filed before this Court.

5. The learned counsel appearing on behalf of the petitioner submitted that the reason assigned by the respondent for rejecting the claim is absolutely baseless and such a reason was given on mere surmises without any supporting materials. The learned counsel further submitted that the deceased employee even while he was alive, had specifically named the petitioner as his wife and he has also specified his children and his mother as his legal heirs. The learned counsel, in order to substantiate his submission, brought to the notice of the Court the Employment Card of the deceased. The learned counsel further submitted that the husband of the petitioner had subscribed to the Employees Provident Fund scheme and even there, the petitioner and his children have been shown as the nominees. The learned counsel also submitted that after the death of her husband, the petitioner had also produced the legal heirship certificate dated 20.05.2002, wherein, again the petitioner, her children and the mother are shown as the legal heirs of the deceased. The learned counsel, therefore, submitted that the impugned letter of the respondent requires interference and there must be a direction to the respondent to sanction all the terminal benefits in favour of the petitioner.

6. Per contra, Mr.K.Moorthi, learned standing counsel appearing on behalf of the respondent-Transport Corporation submitted that the petitioner had not provided any details while claiming for the terminal benefits. The learned counsel further submitted that there was some information regarding the fact that the deceased employee had another wife and that is the reason why the petitioner was asked to get a declaration from the Competent Court. The learned counsel submitted that there are absolutely no grounds to interfere with the impugned

rejection letter.

7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. There are materials to show that the petitioner is the legally wedded wife of the deceased K.B.Prakash Rao, who was working as a driver in the Transport Corporation. The respondent has rejected the claim mainly on two grounds. The first ground that has been stated by the respondent is that in the claim submitted by the petitioner on 31.01.2019, there was nothing to indicate the fact that the petitioner was claiming the terminal benefits of her husband. The second reason that has been assigned by the respondent is that the deceased had married some other person and therefore, the petitioner must get a declaration from the Competent Civil Court.

9. The first reason that has been assigned by the respondent is merely procedural in nature and the petitioner can always be directed to submit a fresh application containing all the particulars. The second reason that has been assigned by the respondent is based on mere surmises and there is no material to substantiate the same. The terminal benefits cannot be rejected merely because the respondent-Transport Corporation gets some information that the deceased employee had another wife. It is important for the respondent to ascertain the same and provide the particulars for rejection, failing which, the rejection order will have to be interfered by this Court.

10. In the instant case, it is seen from records that the deceased employee himself had recognised the petitioner as his wife and also the two children born to them. The deceased employee had also mentioned the name of his mother and she has died in the year 2017. Therefore, the only legal heirs left are the petitioner and her two children. Therefore, in the absence of any other positive materials to show that the deceased was already married before he married the petitioner, the respondent will have to proceed further to entertain the claim made by the petitioner and settle all the terminal benefits.

11. In view of the above discussion, the impugned rejection letter of the respondent dated 14.01.2020 is hereby quashed. The petitioner is directed to make a fresh application/representation to the respondent by providing with all the details and the respondent is directed to consider the same and pass appropriate orders granting the terminal benefits, within a period of four (4) weeks from the date of receipt of copy of this order.

12. This writ petition is allowed with the above directions.
No costs. Consequently, connected Miscellaneous Petition is
also closed.

Sd/-
Asst.Registrar (CS II)

/true copy/
Sub Asst. Registrar

kmi

To

The Senior Deputy Manager,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai,
Chennai-600 002.

+1 cc to M/s.M.Baskaran Advocate sr13325
+1 cc to M/s.K.Moorthy Advocate sr13211

WP.No.3645 of 2020

bp(co)
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