

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2020

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.23066 of 2016 &
W.M.P.No.22710 of 2018

Mrs.G.Idamma

.. Petitioner

Vs.

The Chairman,
Chennai Port Trust,
No.I, Rajaji Salai,
Chennai - 600 001.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondent to settle the family pension and other benefits payable on the death of the deceased husband of the petitioner namely Bakka Mohan Rao, who died on 22.09.2014 in favour of the petitioner.

For Petitioner : Mr.G.Saravanan

For Respondent : Mr.M.Palanimuthu

O R D E R

सत्यमेव जयते

This Writ Petition has been filed to direct the respondent to settle the family pension and other benefits payable on the death of the husband of the writ petitioner namely Bakka Mohan Rao, who died on 22.09.2014, in favour of the petitioner.

2. According to the writ petitioner, the writ petitioner's husband was employed as Assistant Controller of Stores in the respondent Port Trust. As the petitioner's husband late Bakka Mohan Rao was retired from service in December 2002, he received pension from the respondent during his life time. The husband of the writ petitioner passed away on 22.09.2014 leaving behind the writ petitioner and their son

and two daughters as his legal heirs. The aforesaid son and daughters have become majors and they are married and settled in their life and as such the writ petitioner is entitled for family pension as per the rules. Therefore, she made a representation to the respondent to sanction family pension to the writ petitioner. But the respondent has not settled the family pension to the writ petitioner. Hence, the petitioner has filed the present writ petition.

3. The learned Standing Counsel appearing for the respondent submitted that as per Chapter X of the Chennai Port Trust [Pension] Regulations Act 1987, the writ petitioner's husband has not nominated the petitioner in the pension papers. Therefore, the writ petitioner is not entitled to family pension unless she obtain Orders from the competent Court.

4. Heard the learned counsel for the writ petitioner and the learned Standing Counsel for the respondent and perused the materials available on record.

5. Clause 46 (ii) of Chapter X of the Chennai Port Trust [Pension] Regulations Act reads as follows :

Family for the purpose of this rule shall mean and include -

[a] While in the case of male employee or husband in the case of female employee provided in all these cases the marriage took place before the retirement of the employee

[b] Wife and husband shall include respectively judicially separated wife and husband;

[c] Son including legally adopted son who has not attained the age of 21 years and unmarried daughter including legally adopted unmarried daughter who has not attained the age of 24 years.

Note : The above provision shall not include son/daughter born after retirement.

From the aforesaid regulations, the writ petitioner alone is entitled for the family pension. The only objection raised by the respondent is that the husband of the writ petitioner has not nominated the writ petitioner for the pensionary benefits. According to the writ petitioner, the Tahsildar had issued legal heir certificate. On a perusal of the legal heir certificate, the writ petitioner alone is entitled to claim family pensionary benefits, as there is no provisions in the Chennai Port Trust [Pension] Regulations 1987, if there is no nomination in favour of any one of the legal heir, they have to obtain a decree from the Civil Court. Based on the above regulations, the writ petitioner alone is entitled for the family pension, as the

other legal heirs had attained majority and they all got married. In such circumstances, denial of family pension to the writ petitioner by the respondent is arbitrary, illegal and without any justification.

6. In view of the above facts and circumstances, this Court directs the respondent to consider the representation of the writ petitioner dated 07.01.2015 and pass appropriate Orders in the light of the regulations of the Chennai Port Trust [Pension] Regulations, 1987 as expeditiously as possible, not later than a period of three months from the date of receipt of a copy this Order.

7. With the above direction, this Writ Petition is disposed of. Consequently, the connected miscellaneous petition is closed. No cost.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

vrc

To

The Chairman,
Chennai Port Trust,
No.I, Rajaji Salai,
Chennai - 600 001.

+lcc to Mr.M.Palanimuthu, Advocate SR.No.14602

W.P. No.23066 of 2016

SVI (CO)
GMY (23/03/2020)

WEB COPY