

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2020

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No.40427 of 2015

and

M.P.No. 1 of 2015

1. J.Shanthi

2. J.Thilakavathy ..Petitioners

Vs

1 The Chairman
Tamilnadu Generation & Distribution
Corporation TANGEDCO
10th Floor NPKRR Maaligai
144 AnnaSalai Chennai-2

2 The Superintending Engineer
/West/Chennai Tamilnadu Generation &
Distribution Corporation (TNEB) 33KV
Thirumangalam Complex
Anna Nagar Chennai- 40

3 The Executive Engineer (O & M)
Tamilnadu Generation & Distribution
Corporation (TNEB) 1100 A H Block 5th
Street Ranganathan Garden
Anna Nagar, Chennai-40

4 The Assistant Executive
Engineer Tamilnadu Generation & Distribution
Corporation (TNEB) Anna Nagar/North Z Block
182 6th Avenue Chennai-40

5 T.Latha

6 Ramya (Minor) .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 4 to disburse the terminal benefits of the deceased employee D.Jaishankar who was working as Foreman in Special Grade at the office of the Assistant

Executive Engineer Tamil Nadu Generation & Distribution Corporation Anna Nagar/North Z Block 182 6th Avenue Chennai-600 040 to the petitioners and provide an employment an compassionate ground to any one of the petitioners subject to the suitability.

For Petitioner : M/s. R.Saseetharan

For Respondents : M/s. P.R. Dhilip Kumar - R1 to R4
M/s. C.K.M. Appaji - R5 & R6

O R D E R

The prayer sought for in the Writ Petition is to directing the respondents 1 to 4 to disburse the terminal benefits of the deceased employee D.Jaishankar who was working as Foreman in Special Grade at the office of the Assistant Executive Engineer Tamil Nadu Generation & Distribution Corporation Anna Nagar/North Z Block 182 6th Avenue Chennai-600 040 to the petitioners and provide an employment an compassionate ground to any one of the petitioners subject to the suitability.

2. Brief facts of the case:

The writ petitioner is a legally wedded wife of the deceased employee R.Jaishankar, who was working as Foreman in Special grade, TNEB, West Anna Nagar, Chennai-600040 and died in harness on 23.06.2014. Out of wedlock, she gave to a female child, namely J.Thilagavathi, who is the 2nd respondent herein. Subsequent to the death of her husband, she made a representation on 29.07.2015 to the respondents to grant all terminal benefits which is due to the deceased employee. But the respondents have not disbursed the same to her, only on the ground that there was a rival claim from 5th & 6th respondents herein, who claimed to be 2nd wife and their daughter. The 5th respondent has also submitted a representation to the respondents on 19.07.2014, stating that she was leading a live-in relationship with the deceased employee and also stated that the deceased employee had executed a Will on 13.06.2014 by bequeathing a share a movable and immovable properties as well as a share in terminal benefits along with the petitioners herein. In view of the representation of the 5th respondent, the official respondents 1 to 4 have kept pending the request of the petitioners till date. Hence this Writ Petition.

3. Heard both sides and perused the documents available on record.

4. According to the learned counsel for the petitioners,

the terminal benefits of the deceased employee have not been settled to the writ petitioners. It is admitted by the respondents 10 4 that as per Will dated 13.06.2014 executed by the deceased employee D.Jaishankar, he bequeathed the properties to the 6th respondent including terminal benefits along with the writ petitioners herein. Therefore, the writ petitioners herein are entitled to 1/3 share of the terminal benefits of the deceased employee D.Jaishankar.

5. Upon hearing the arguments of the learned counsel for the parties concerned and in view of the alleged Will executed by the deceased employee D.Jaishankar, bequeathing a share of his properties as well as terminal benefits equally to the 5th & 6th respondents along with the writ petitioners herein and also by taking into consideration the pending Application to Probate filed by the 6th respondent in O.P.SR No.35769 of 2014 before the concerned Civil Court, this Court finds it appropriate to grant 1/3 share of terminal benefits to the writ petitioners. Accordingly, with the consent of the learned counsel for the parties concerned, the following order is passed;

- i. The writ petitioners are directed to file a fresh application in the prescribed format before the 2nd respondent to claim 1/3 share of terminal benefits of the deceased employee D.Jaishankar, within a period of four (4) weeks from the date of receipt of a copy of this Order.
- ii. After such application, the respondent corporation shall consider the same and pass appropriate orders, sanctioning 1/3 of aforesaid terminal benefits after giving due opportunities to the parties concerned within four (4) weeks thereafter.
- iii. Since both the parties have agreed, the respondent corporation shall deposit 1/3 share of terminal benefits in respect of the 6th respondent in any one of the Nationalised Bank. The same shall be deposited for a period of six (6) months.
- iv. In the meantime, the 6th respondent shall approach the competent Civil Court and seek remedy. If no interim orders are obtained by the 6th respondent within a period of six months, the writ petitioners will be entitled to claim aforesaid terminal benefits of the deceased employee D.Jaishankar.
- v. Insofar as the prayer with regard to the compassionate appointment is concerned, it is open to the 2nd writ petitioner to make application with the respondent corporation without prejudice to the rights of the parties

concerned.

With the above directions, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

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182 6th Avenue Chennai-40.

+1cc to Mr.R.Saseetharan, Advocate, S.R.No. 150
+1cc to Mr.P.R.Dhilip Kumar, Advocate, S.R.No. 65

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and M.P.No. 1 of 2015

RSV(CO)
GN(04/03/2020)