

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.30046 of 2014

Pappayammal

...Petitioner

.Vs.

1. The Tamil Nadu State Corporation (Salem) Limited,
Rep by its Managing Director,
12, Ramakrishna Road,
Salem-600 007.

2. The TNSTC Employees Pension Fund Trust,
Rep by its Administrator, SETC Compound,
Pallavan Salai, Chennai-600 002.

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for all the connected and relevant records relating to the letter No.8705/Pension 1/TSTC(S)/2009 dated 09.07.2009 of the first respondent and letter No.44/SS/TNSTC-PFT/2009-7778 dated 22.07.2009 issued by the second respondent and quash the same and direct them to sanction Family Pension to the Petitioner from 12.10.2004 ie., from the date following the date of death of Petitioner's son and to settle the arrears of Family Pension accordingly.

For Petitioner : Mr. D.Sadhasivan

For Respondents : Mr. D.Raghu

ORDER

Petitioner has come up with this writ petition to quash the Letter No.8705/Pension 1/TSTC(S)/2009, dated 09.07.2009 issued by the first respondent and Letter No.44/SS/TNSTC-PFT/2009-7778, dated 22.07.2009 issued by the second respondent and for a direction to sanction Family Pension to her from 12.10.2004, i.e. from the date following the date of death of her son and to settle the arrears of Family Pension accordingly.

2. According to the petitioner, her only son joined the services of the Respondent/Corporation as Tradesman, on

03.05.1985. While in service, her son met with a fatal accident and died on 11.10.2004. She further averred that, as per the entries in the Service Register pertaining to her son, she came to know that her name was registered as nominee. That being so, she produced the relevant documents viz. Death Certificate of her son and Legal Heirship Certificate to the Respondents and claimed settlement benefits due to her son. In response, they settled all dues except family pension, and informed that, in the event of death of a married employee, the claim of family pension to his/her parents will not be entertained. She further averred that her son's matrimonial life ended in separation vide order dated 05.09.2001 in O.S. No.85 of 2001, before the Sub Court, Namakkal, and that, her son died issueless. Hence, it is the case of the Petitioner that, her name was already registered as 'nominee' in the Service Register and she is entitled to claim family pension.

3. Mr.D.Sadhasivam, learned counsel for the petitioner reiterating the affidavit submitted that, as per Rule provision, a member who does not have a family at the time of death, can nominate a person to receive family pension. He pointed out that, the marriage of the Petitioner's son was annulled before his death and as such, he has nominated his mother to receive family pension. Hence, he prayed to allow this Writ Petition and issue a direction to the Respondents to consider the claim of the Petitioner for Family Pension within a stipulated time frame.

4. On the other hand, Mr.D.Raghu, learned Standing Counsel appearing for the Respondents, vehemently opposed the averments of the learned counsel for the petitioner and submitted that, the nomination particulars were entered in the Service Register of the deceased before his marriage and as such, the petitioner is not eligible to receive family pension. Accordingly, he prayed for dismissal of the Writ Petition.

5. This Court bestowed its best attention to the arguments advanced by the learned counsel on either side and perused the materials available on record.

6. It is not in dispute that, the deceased was the only son of the petitioner. Admittedly, the deceased has submitted nomination in favour of his mother and on a perusal of the records, it is seen that, due to some dispute between the deceased and his wife, he obtained divorce from her before the Subordinate Court, Namakkal in O.S.No.85 of 2001, vide order dated 05.09.2001 and the same has not been disputed by the respondents. As the Petitioner's son died issueless, the question of claim on the part of his children would not arise at all. In such a scenario, when the deceased has nominated his

mother to receive Family Pension and taking into account that, the mother of the deceased is solely dependant on her son's pension for survival and considering the fact that, the Petitioner/mother of the deceased is 80 years old, this Court is of the opinion that, the Petitioner is eligible to receive family pension, though, the Respondents have rejected the claim of the petitioner, which is non est in law. Accordingly this Court is inclined to quash the impugned letters dated 09.07.2009 and 22.07.2009 and also issue a direction to the Respondents to consider the claim of the petitioner for getting family pension and retiral benefits, if any due to her deceased son.

7. For the foregoing reasons, the impugned letter No.8705/Pension 1/TSTC(S)/2009, dated 09.07.2009 issued by the first respondent and Letter No.44/SS/TNSTC-PFT/2009-7778, dated 22.07.2009 issued by the second Respondent, are hereby quashed and the Respondents are directed to consider the claim of the Petitioner as regards Family Pension and settlement of arrears, if any, to her and pass appropriate orders on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order.

8. In the result, the Writ Petition stands allowed with the above direction. No costs.

Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

To

1. The Tamil Nadu State Corporation (Salem) Limited,
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12, Ramakrishna Road,
Salem-600 007.

2. The TNSTC Employees Pension Fund Trust,
Rep by its Administrator, SETC Compound,
Pallavan Salai, Chennai-600 002.

+1cc to Mr.D.Raghu, Advocate, S.R.No.39476

+1cc to the Government Pleader, S.R.No. 39588

W.P.No.30046 of 2014

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