

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.11.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.7860 of 2014 & 8358 of 2015
and
M.P.No.1 of 2015

A.Adaikalasamy ... Petitioner in both WPs.
vs.

1.Assistant Elementary Education Officer,
Andimadam
Udaiyarpalayam Taluk
Ariyalur District,
Ariyalur.

2.District Elementary Education Officer,
Ariyalur.

3.District Treasurer,
College Road,
Chennai 600 006.

4.District Collector,
Ariyalur.

5.The Secretary to Government,
Education Department,
Fort. St. George,
Chennai 600 009.

... Respondents in both WPs.

Prayer in WP.7860/2014:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to pay 12% interest per annum from the date of death of Arokiyasamy to the date of disbursing the E.L., gratuity, P.F., to the petitioner.

Prayer in WP.8358/2015

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorified Mandamus, to call for the records and quash the impugned order Na.K.No.197/A1/2014 dated 07.04.2014 issued by the 1st respondent and consequently to settle the arrears of Family pension from

the date of death of his brother late Arokyasamy to the date of death of his mother to the petitioner.

in both WPs

For Petitioner : M/S.N.Beulah John Selvaraj.

For Respondent(s): Mr. S.Sureshkumar, G.A.,
for RR1,2 & 5.

: Mr.S.Thangavel, Spl. G.P. for RR3 &4

COMMON ORDER

As relief sought for these writ petitions are in similar, therefore they are disposed of by this Common order.

2.Both the writ petitions have been filed by the very same petitioner against the very same respondent for settlement of arrears of Family pension from the date of death of his brother Late Arokyasamy to the date of death of his mother to the petitioner.

2.The case of the petitioner is that the petitioner's brother, (Late) Arokyasamy was employed as Headmaster in Panchayat Union Elementary School, Udaiyar Palayam Taluk, Ariyalur District and while in service his brother died on 09.09.2008, leaving behind his surviving legal heirs mother, brother and sisters. Thereafter, the petitioner filed a suit for declaration in O.S.NO.95 of 2011 before the District Munsif Court, Jayakondam for payment of death cum retirement benefits and gratuity. The trial Court decreed the suit on 27.08.2012 and issued a direction to the respondents to settle the terminal benefits except family pension. As per the decree a sum of Rs. 6,25,617/- was settled in favour of the petitioner, however the family pension due and payable to the petitioner's mother from the date of his brother's demise viz., 10.09.2008 till the date of death of his mother on 06.02.2010, was not paid to the petitioner's mother. To claim the same, the petitioner made a representation on 07.04.2013 and since no order was passed, the petitioner filed writ petition in WP.No.1074 of 2014 before this Court and this Court by its order dated 24.01.2014 issued a direction to the respondent to consider the petitioner's representation within a period of 6 weeks from the date of that order. Pursuant to the said direction, the present impugned order was passed by the respondents, rejecting the above said representation. Hence these petitions.

3. The learned counsel appearing for the petitioner submitted that the petitioner has not claimed any family pension but is claiming only the family pension due to his mother during her survival period which has been negatived by the respondents on the wrong understanding as if the petitioner is claiming family pension. The order has been passed by the respondents mechanically without applying their mind. Hence it would suffice, if this Court issues a direction to the respondent to consider the representation of the petitioner in proper perspective in accordance with law within a reasonable time as fixed by this Court.

4. On the above condition, this Court heard the learned Government Advocate appearing for respondent who fairly conceded the request made by the learned counsel for petitioner and submitted that this Court may issue a direction to consider the representation given by the petitioner relating to the family pension due to the petitioner's mother during her life time within a time frame fixed by this Court.

5. This Court perused the materials available on record.

6. The facts in the present case is not in dispute. Admittedly, on the death of the Government employee, the members of the family or legal heirs are eligible to claim the due legitimately due to them, such as gratuity, family pension, etc. In the present case, the petitioner's brother died while in service, therefore his mother, as the legal heir, is entitled to family pension until her life time. It is the case of the petitioner that the family pension due to his mother during her life time has not been paid, which is not disputed by the respondents. The impugned order passed by the respondents reveal that the respondents have not applied their mind to the case of the petitioner in proper perspective and have mechanically negatived his request as if he is claiming for family pension. The family pension sought for by the petitioner is only for the time when his mother was alive and during the said period when she was eligible and entitled for family pension of his brother. The representation filed by the petitioner has been wrongly understood by the respondents and the impugned order has been passed, which requires interference.

7. In the light of the discussion aforesaid, both the writ petitions are allowed and the impugned orders dated 07.04.2014 are set aside and this Court directs the respondent to grant

family pension, which is due to the petitioner's mother during her life time to which she is eligible and pay the same to the petitioner within a period of twelve weeks without interest from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

jrs

To

1. Assistant Elementary Education Officer,
Andimadam
Udaiyarpalayam Taluk
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+2 Ccs to M/S.N.Beulah John Selvaraj, Advocate sr 37448 & 37449
+1 CC to The Government Pleader sr 37398 & 37379.

W.P.Nos.7860 of 2014 & 8358 of 2015

SR(CO)
SP(09/12/2020)