

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.02.2020
CORAM
THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
W.P.Nos.21561 of 2017 & 36289 of 2016
and
WMP.Nos.31203 & 31204 of 2016

WP.No.21561 of 2017

M.Sakthivel

... Petitioner

vs.

1.The Chief Educational Officer,
O/o The Cheif Educational Office,
Villupuram Educational District,
Villupuram - 605 602.

2.The Head Master,
Government High School,
Kazhuperumpakkam,
Vanoor Taluk,
Villupuram District - 605 014.

3.K.Ramakrishnan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus to direct the first and second respondents to disburse the entire death benefits including DCRG, PF Amount, Leave Encashment, family pension and other consequential benefits with interest from the date of claim.

For Petitioner : Mr.R.Manimuthu

For Respondents : Mrs.P.Kavitha,
Government Advocate for R1 and R2

Mr.E.Sathiyaraj
for Mr.A.K.Velan for R3

WP.No.36289 of 2016

K.Ramakrishnan

... Petitioner

vs.

1.The Secretary to Government,
State of Tamil Nadu, Education,
Secretariat, Chennai.

2.The Director of School Education,
Directorate of School Education,
College Road, Nungambakkam,
Chennai.

3.The Chief Educational Officer,
O/o The Cheif Educational Office,
Villupuram Educational District,
Villupuram - 605 602.

4.The District Educational Officer,
O/o.The District Educational Officer,
Villupuram Educational District,
Villupuram - 605 602.

5.The Principal,
Government Higher Secondary School,
Kazhuperumpakkam, Vanur Taluk,
Villupuram.

6.M.Sakthivel

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus to direct the respondents to disburse the entire terminal benefits such as GPF Gratuity, Family benefit fund etc., those become due on the death of daughter Thilagavathy worked as P.G. Teacher (Chemistry) specifically to petitioner alone with all consequential benefits.

For Petitioner : Mr.E.SathiyaRaj
for Mr.A.K.Velan

For Respondents : Mrs.P.Kavitha,
Government Advocate for R1 to R5
Mr.R.Manimuthu for R6

C O M M O N O R D E R

These petitions are filed by the husband and the father of one Thilagavathi (deceased) seeking for the disbursement of entire death benefits to them, that became due on the death of Thilagavathy, who worked as P.G. Teacher (Chemistry), Government High School, Kazhuperumpakkam.

2. The petitioner in WP.No.21561 of 2017 (herein after called as the first petitioner) is the husband of the deceased Thilagavathy and the petitioner in WP.No.36289 of 2016 (herein after called as the second petitioner) is the father of the deceased Thilagavathy. Thilagavathi died on 16.10.2014. Subsequently, the second petitioner lodged a criminal complaint against the first petitioner on 08.11.2014 before All Women Police Station, Panrutti, Cuddalore. Both the petitioners appeared for the enquiry wherein the second petitioner informed the officials not to proceed with his complaint. Thereafter, he lodged a complaint before Orleanpet Police Station, Puducherry. Since the Police did not register his complaint, he filed a petition in Crl.O.P.No.2240 of 2015 before this Court. Thereafter, based on the directions of this Court, Sub-Inspector of Police conducted an enquiry and submitted a report stating that no cognizable offence has been made out in the complaint. Thereafter, the second petitioner filed WP.No.29892 of 2015 before this Court, praying to consider his representation dated 03.07.2015 and to disburse the entire death benefits to him. This Court vide order dated 23.09.2015, directed the Chief Educational Officer to consider and dispose of the representation, after issuing notice to the first petitioner. The first petitioner appeared for the enquiry on 28.07.2016 and submitted his written statement to Head Master, Government High School, Kazhuperumpakkam. However, no order was passed on the above said representation.

3. Now the present petitions are filed for the disbursement of entire death benefits to the petitioners, that become due on the death of Thilagavathy.

4. Heard the learned counsel appearing for the petitioners and respondents in both Writ Petitions.

5. In the counter affidavit filed by the Chief Educational Officer, Villupuram, it is mentioned that as per Tamil Nadu Pension Rules, no nomination is required for payment of family pension and it is payable to the widower of the deceased Government employee. In Rule 46 (1) of the Tamil Nadu

Pension Rules, it is clearly stated that as far as death gratuity is concerned, the gratuity payable under Rule 45 shall be paid to the person or persons on whom the right to receive the gratuity is conferred, by means of nomination under Rule 48. If no nomination exists, the gratuity shall be paid as follows, "if there are one or more surviving members of the family as in clauses (i), (ii), (iii) and (iv) of sub Rule (5) of Rule 45, to all such members in equal shares". Since in the instant case, no nomination was filed by the deceased Government Servant, either in favour of her husband or father, the above Rule has to be adopted for disbursement of the Death Gratuity.

6. It is also seen from the counter affidavit that, in regard to the General Provident Fund and Special Provident Fund, it is ordered in G.O.Ms.No.136, Finance, dated 29.02.1984 and in Government Letter No.24584/ Finance / 85-1, dated 04.05.1985, that no separate nomination has to be filed to receive the amount and the nomination filed for DCRG is applicable for this fund also. 'Persons entitled to receive Family Benefit Fund' under Rule 9 of the Tamil Nadu Government Servants Family Benefit Fund, in case of female employee are the husband, children of an employee, unless the employee expresses her desire to exclude her husband from the family.

7. Therefore, in view of the aforesaid rules, this Court is of the considered opinion that whether the petitioners are entitled for death benefits under the Rules, shall be decided by the Authority concerned. It is clear that the Head Master, Government High School, Kazhuperumpakkam had not passed any orders till now. Hence, the Head Master, Government High School, Kazhuperumpakkam is directed to conclude the enquiry and submit the report before the Chief Educational Officer, Villupuram, as expeditiously as possible, within a period of twelve weeks from the date of receipt of a copy of this order. If there is no nomination in favour of the second petitioner, the Chief Educational Officer, Villupuram has to consider the matter, based on the above report and in light of the relevant rules and then pass appropriate orders on merits and in accordance with law, as expeditiously as possible, within a period of twelve weeks from the date of submission of report by the Head Master, Government High School, Kazhuperumpakkam.

8. The petitioners are at liberty to submit additional papers and documents to the Head Master, Government High School, Kazhuperumpakkam, if so advised, within a period of two weeks from the date of receipt of a copy of this order.

9. With the above directions, the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

-Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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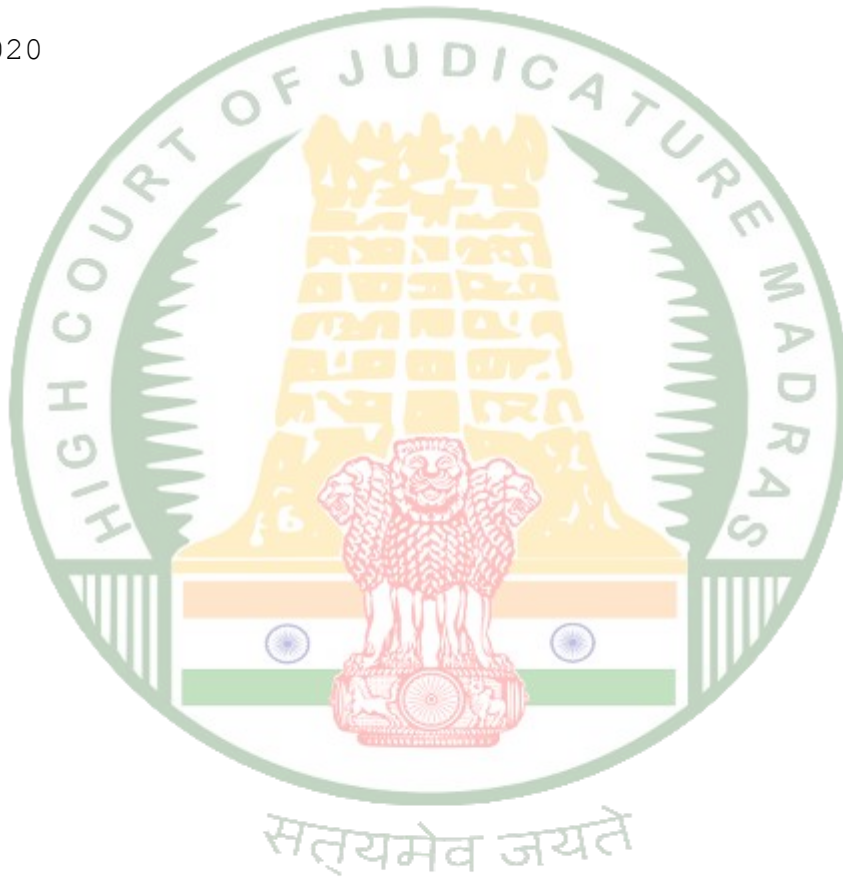
To

- 1.The Chief Educational Officer,
O/o The Cheif Educational Office,
Villupuram Educational District,
Villupuram - 605 602.
- 2.The Head Master,
Government High School,
Kazhuperumpakkam,
Vanoor Taluk,
Villupuram District - 605 014.
- 3.The Secretary to Government,
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Secretariat, Chennai.
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Directorate of School Education,
College Road, Nungambakkam,
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- 5.The District Educational Officer,
O/o.The District Educational Officer,
Villupuram Educational District,
Villupuram - 605 602.
- 6.The Principal Government Hr Sec School
Kazhuperumpakkam, Vanur Taluk
Villupuram

+2 ccs to Mr.R.Manimuth Advocate sr8405
+1 cc to Mr.E.Sathiyaraj Advocate sr9278
+1 cc to the Government Pleader sr9482

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