

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.01.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.23691 of 2017
and
W.M.P.No.24891 of 2017

S.Bharathi ... Petitioner

Vs.

Conservator of Forests,
Chennai Region,
Chennai 600 006. ... Respondents

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Mandamus or any other appropriate writ, or order or direction in the nature of writ directing the respondent to pay 1/3 retirement benefits of the petitioner's father late N.Sundaravadivelu to her without insisting production of legal heirship certificate, as she being a nominee and family member to receive retirement benefits.

For Petitioner : Mr.V.Venkatasamy
For Respondent : Mr.S.Prabhu,
Addl. Gov. Pleader (Forest)

O R D E R

This petition has been filed for direction to the respondent to pay 1/3 retirement benefits of the petitioner's father late N.Sundaravadivelu to her without insisting production of legal heirship certificate, as she being a nominee and family member to receive retirement benefits.

2. The case of the writ petitioner in nutshell is as follows.

The petitioner's father N.Sundara Vadivelu was working as Assistant Conservator of Forest and while he was in service he was placed under suspension. During the period of suspension, he attained superannuation and retired from service. As no retirement benefits have been sanctioned to him, he filed a writ petition in w.P.No.17099 of 2007 and pending writ petition, he died on 21.03.2014. Thereafter, the writ petition was allowed by directing the respondent to disburse the retirement benefits to the legal heirs of deceased.

2.1. After the death of the petitioner's mother, her father married one Eswari. Since the marriage of the petitioner is an inter-caste marriage, her brother is not cordial with her and hence in collusion with the above said Eswari, he obtained legal heirship certificate, suppressing the name of the petitioner.

2.2. In the service Register of the deceased Sundara Vadivelu, the petitioner's name was shown as daughter and she was nominated to receive the gratuity payable. The respondent through their proceedings dated 21.04.2017 informed that legal heirship certificate should be submitted by the petitioner within 15 days. To that proceedings, the petitioner sent a reply notice dated 05.05.2017 stating that after obtaining the legal heirship certificate, it would be submitted. Therefore, the petitioner is entitled to receive 1/3 share of the death cum retirement benefits of her deceased father and hence this writ petition.

3. The respondent filed counter affidavit, wherein, it is stated as follows.

i) In pursuant to the orders passed by this court in W.P.No.17099 of 2017 dated 29.01.2012, the government have passed an order in G.O.(D) No.127, E & F (FR-I) Department dated 11.07.2016 ordering that N.Sundaravadivelu is deemed to have been retired from service on the afternoon of 30.06.1995 and consequently, the respondent was instructed to settle the pensioner's benefits to the legal heirs of the deceased N.Sundaravadivelu .

ii) Tmt. S.Eswari (second wife) has produced the legal heirship certificate, in which the following members are shown as legal heirs.

1. Tmt. Meen (first wife)
2. Tmt. Easwari (2nd wife)
3. Thiru Selvamurugan (son of first wife)

However, till date, the petitioner has not produced the legal heirs certificate.

iii) In the service register, the deceased Sundaravadivelu had given the following persons as his family members during the year 1993.

1. Self
2. S.Meena - wife
3. S.Selvamurugan - son
4. S.Bharathi - daughter
5. Natarajan - father
6. Rajeswari - mother

iv) On the death of his first wife S.Meena, the deceased N.Sundaravadivelu submitted legal heirship certificate, wherein, he and his son S.Selvamurugan were mentioned as legal heirs of the deceased S.Meena (first wife). Further, in his representation dated 20.06.2005, the deceased

nominated Tmt.S.Easwari (second wife) instead of his first wife, the deceased S.Meena, as his legal heir. However, he had not given any nomination for pension benefits to disburse to other family members. Hence, based on the legal heirship certificate, the pensioner benefits may be settled to the legal heirs.

4. Heard the learned counsel appearing for the writ petitioner as well as the learned Additional Government Pleader. I have perused the materials on record.

5. The contention of the writ petitioner is that in the service register, the deceased Sundaravadivelu, the father of the petitioner had nominated her to receive the gratuity payable and therefore, she is entitled to receive 1/3 share of the death cum retirement benefits. But, as per the records, the petitioner was not nominated by her father to receive the gratuity amount. However, her name was mentioned in the Service Register of the deceased, as one of the family members. As rightly pointed out by the learned counsel appearing for the writ petitioner, as a legal heir, the petitioner is entitled to receive a share of the death cum retirement benefits of the deceased among the other legal heirs.

6. Accordingly, this court is inclined to pass the following order.

(i) The writ petitioner is directed to make a fresh representation along with the legal reply notice given by her dated 05.05.2017 to the respondent and on receipt of such representation, the respondent is directed to consider and pass orders, after providing opportunities to all the legal heirs of the deceased Sundaravadivelu, within a period of 12 weeks from the date of receipt of the copy of this order.

ii) It is needless to say that a copy of the legal heirship certificate obtained from the concerned authority shall also be enclosed along with the representation to the respondent.

7. With the above direction, this writ petition is disposed of. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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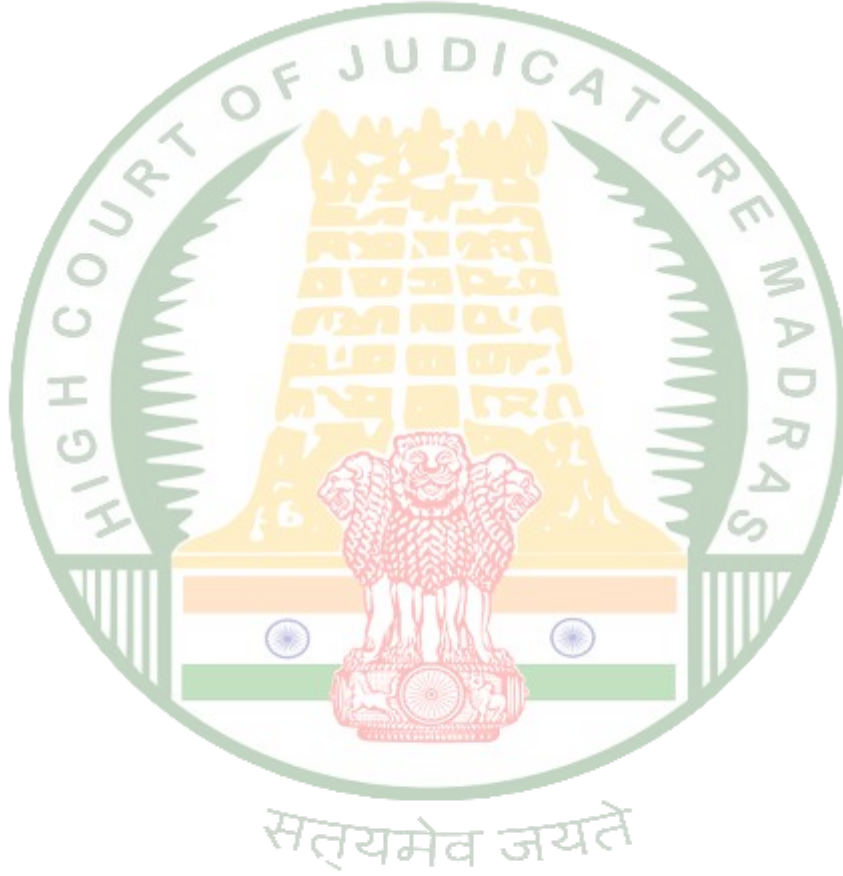
To

The Conservator of Forests,
Chennai Region, Chennai 600 006.

+1cc to Mr.V.Venkatasamy, Advocate, S.R.No. 7544

W.P.No.23691 of 2017 and
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SR(CO)
GN(03/03/2020)



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