

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.01.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
W.P.No.29468 of 2017

Minor D.Prithika ,
rep.by its Natural Guardian, Grandfather,
G.Kannan. ... Petitioner

Vs.

The District Primary Educational Officer,
district Primary Educational Office,
Nagapattinam District,
Nagapattinam. ... Respondent

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondent to pay the arrears of terminal and pension benefits of late D.Chitra, W/o Dakshnamoorthy to her daughter minor D.Prithika.

For Petitioner : Mr.G.V.Sridharan

For Respondent : Mrs. P.Kavitha

ORDER

This petition has been filed for direction to the respondent to pay the arrears of terminal and pension benefits of late D.Chitra, W/o Dakshnamoorthy to her daughter minor D.Prithika.

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

The petitioner D.Prithika is a minor aged 12 years and she is represented by her grandfather G.Kannan. The petitioner's mother D.Chitra was working as a teacher in an Union Middle School, Thiruvahalankadu and she died on 20.06.2016, due to sudden heart attack. After her death, the respondent has transferred the terminal benefits of late D.Chitra to her husband Dhakshnamoorthy, including the share of the petitioner. Ever since the date of birth of the petitioner, she was taken care of by her grandfather, since the Dhakshnamoorthy deserted his wife D.Chitra.

2.1. On 22.10.2016, the minor child and her father entered into a consent deed in front of Ex-Teacher Association, thereby, Dakshnamoorthy agreed to share the terminal and pension benefits between him and his daughter. however, he did not act as per the deed and also take care

of his minor child, as a father. Hence this writ petition.

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

i) The deceased employee had already filed Nomination in respect of Death cum retirement Gratuity and Family Security Fund in favour of her husband.

ii) As per Tamilnadu Pension Rules, the husband of the female employee alone is entitled to get family pension and her minor daughter is not entitled to get the family pension, until the death of the employee's husband. As per the legal heirship certificate issued by the Tahsildar, Kuthalam, Dakshnamoorthy and Prithika are the legal heirs of the deceased D.Chitra.

iii) Being the father of the Prithika, Dakshnamoorthy is the natural guardian and the petitioner's grand father is not the natural guardian.

iv) In the absence of statutory provisions for the payment of terminal benefits to the minor daughter of the deceased employee, the request of the petitioner has no merit.

v) More over, the payment of the terminal benefits has already been made to Dakshnamoorthy, the husband of the deceased and hence, there is no question of payment of terminal benefits to the minor daughter at this juncture and hence the writ petition is liable to be dismissed.

4. Heard the learned counsel appearing for the petitioner as well as the respondent and I have perused the materials on record.

5. The deceased employee has already filed nomination in favour of her husband and that there is no statutory provision for the apportionment of such benefit to the minor legal heir of the deceased employee. Therefore, the husband of the deceased alone is eligible to receive the terminal pension benefits of the deceased. Further, it is admitted fact that the writ petitioner has not made any representation to the respondent at the time of disbursement of the terminal benefits to her father Dakshnamoorthy and the terminal benefits had been already paid to him. Therefore, at this stage, no relief can be granted to the writ petitioner. However, if the petitioner has any right to get other benefits under the rules or on the basis of the consent deed entered into between her and her father, she can seek the remedy before the appropriate forum.

6. With the above observation, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To
The District Primary Educational Officer,
district Primary Educational Office,
Nagapattinam District,
Nagapattinam.

+1 cc to Government Pleader Sr.No. 6166

W.P.No.29468 of 2017

A.SK(26/02/2020)



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