



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.11064 of 2020

and

W.M.P. (MD) No.9703 of 2020

WEB COPY

P. Saraswathi

... Petitioner

Vs.

- 1) The State of Tamil Nadu,
Rep. by its Director,
Medical and Rural Health Services,
Teynampet, Chennai 600 006
- 2) The Joint Director,
Medical and Rural Health Services,
Old District Head Quarters Hospital,
Sivagangai.
- 3) The Chief Medical Officer,
Government Hospital,
Tiruppathoor,
Sivagangai District.
- 4) The Accountant General,
Accounts and Entitlement,
Nanthanam,
Chennai 600 018

5) P.Rasathi

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent Nos.1 to 4 to disburse all services and pension benefits of the petitioner's husband namely Pandi S/o.Perumal to the petitioner and consequently direct the respondents No.1 to 4 to appoint the petitioner's son namely Ramachandran as a Sanitary Worker on compassionate appointment with the respondent No.3's office by consider the petitioner's representation dated 24.5.2020 with consequential benefits.

For Petitioner	: Mr.T.Thirumurugan
For RR 1 to 3	: Mr.G.Arjunan, Government Advocate
For R4	: Mr.P.Gunasekaran



O R D E R

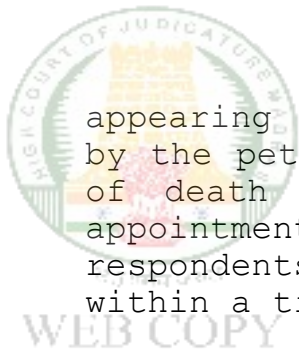
The prayer sought for in this writ petition is for a Writ of Mandamus, directing the respondent Nos.1 to 4 to disburse all services and pension benefits of the petitioner's husband namely, Pandi S/o.Perumal to the petitioner and consequently direct the respondents No.1 to 4 to appoint the petitioner's son namely Ramachandran as a Sanitary Worker on compassionate appointment with the respondent No.3's office by considering the petitioner's representation dated 24.5.2020 with consequential benefits.

2. The case of the petitioner is that, the petitioner is the legally wedded wife of one Pandi, who was working with the respondent Department as Sanitary Worker and he had been working at Sivagangai District, lastly at the station called Thirupathur i.e. the third respondent Hospital. While so, suddenly on 06.04.2020, the husband of the petitioner/ Pandi died. Therefore, according to the petitioner, the family of the petitioner has been left by the deceased employee with his wife and two children as well as mother, in indigent circumstances.

3. Hence, in order to get the death cum retirement benefits, as well as seeking for compassionate appointment to the son of the petitioner, an application / request was made on 24.05.2020 and subsequently, to the said representation, the second respondent vide his communication dated 01.06.2020 directed the petitioner to produce the Death Certificate as well as Legal Heir certificate. Accordingly, the petitioner seems to have submitted those certificates and pursuant to which, by further communication dated 09.07.2020, the respondents have requested the Tahsildar concerned i.e. Tahsildar Sivagangai Taluk to verify the genuinity of the certificate issued in favour of the petitioner, because apart from the petitioner, one more person by name Rasathi has also claimed that, she is also the legally wedded wife of the employee and accordingly, she seeks for the death cum retiral benefits of the petitioner's husband. Accordingly, who is the legally wedded wife of the deceased and who is the real legal heir, who is entitled to get the benefits of the deceased, can be ascertained and be reported.

4. In these circumstances, the petitioner has approached this Court with the aforesaid prayer, where the second wife or another wife namely Rasathi has been impleaded as the fifth respondent.

5. Heard Mr.T.Thirumurugan, learned counsel for the petitioner, who would submit that, the petitioner is only the legally wedded wife and out of the wedlock, the petitioner and her husband/ deceased employee, had two children and in respect of the first child, namely Ramachandran, who is the son, the petitioner sought for compassionate appointment and also the said Ramachandran had given independent application to the respondents on 24.05.2020 seeking compassionate appointment. Therefore, the learned counsel



appearing for the petitioner submits that, the representation given by the petitioner can be considered for the purpose of disbursement of death cum retirement benefits as well as the compassionate appointment of her son. Accordingly, let there be a direction to the respondents to decide the same on merits and in accordance with law within a time frame.

6. Heard Mr.G.Arjunan, learned Government Advocate appearing for respondents 1, 2, and 3 and Mr.P.Gunasekaran, learned standing counsel appearing for the fourth respondent. In view of the order going to be passed in this writ petition, notice to the fifth respondent is dispensed with.

7. The learned standing counsel appearing for the fourth respondent would submit that, now, two women, including the petitioner, have come forward to make a claim that, they are the legally wedded wives of the deceased employee and in this regard, who is the legally wedded wife and who can be the legal heir of the deceased employee can be ascertained only through the Revenue Department, for which, already the second respondent referred the matter to the Tahsildar concerned. Therefore, after having verified those aspects by conducting a full fledged enquiry with the petitioner as well as the fifth respondent, the issue raised herein i.e. Death cum Retirement Benefits as well as the compassionate appointment would be considered on merits and accordingly, a decision would be taken by the respondents, especially by the second and third respondents.

8. I have considered the submissions made by the learned counsel appearing for both sides and having taken note of the aforesaid factual matrix, since the petitioner as well as the fifth respondent claimed to be the legally wedded wives of the deceased Government Servant, that issue has to be first resolved, and then only, the benefit sought for by the petitioner can be considered.

9. In that view of the matter, this Writ Petition is disposed of with the following order:

"that the respondents, especially respondents 2 and 3, are hereby directed to consider the representations of the petitioner dated 24.05.2020 and 11.08.2020s by sending notice to both the petitioner as well as the fifth respondent and after ascertaining the fact, that among the two, who is the legally wedded wife of the deceased employee of the respondent Department namely one Pandi, and accordingly, a decision can be made by the respondents as to whom the Death sum Retirement benefits of the deceased employee can be disbursed and whether the petitioner's son is entitled to get the compassionate appointment and accordingly, decide the said issue also on merits and in accordance with law.



The aforesaid needful shall be undertaken by the respondents within a period of three months from the date of receipt of a copy of this order."

10. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected W.M.P.(MD) No.9703 of 2020 is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1) The Director,
Medical and Rural Health Services,
Teynampet, Chennai 600 006
- 2) The Joint Director,
Medical and Rural Health Services,
Old District Head Quarters Hospital,
Sivagangai.
- 3) The Chief Medical Officer,
Government Hospital,
Tiruppathoor, Sivagangai District.

+1 CC to the SPL GP (SR-16197[F] dated 08/09/2020)

W.P. (MD) No.11064 of 2020

PU(CO)
CS(29.10.2020) 4P 5C