



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2020

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.11797 of 2020

and

W.M.P. (MD)Nos.10216 to 10218 of 2020

M.Prema

...Petitioner

-Vs-

1.The Superintending Engineer,
TANGEDCO, Greater Town,
Madurai.

2.The Executive Engineer,
(Distribution) North,
K.Pudur, Madurai-625 007.

3.The Assistant Engineer,
(Distribution) Thamukkam,
Thallakulam, Madurai.

4.K.Muthu

...Respondents

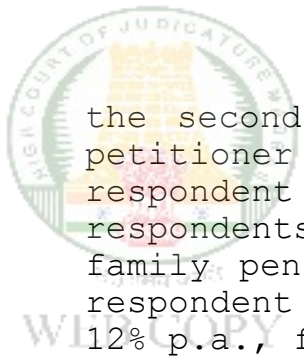
Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the second respondent in K.No.Se.Po/Pagir/Vada/Peru/Madu/Ni.Me/Vu.I/Ko.Irappu/A.No.700/2020 dated 27.03.2020 insofar as compelling the petitioner to get consent letter / No Objection from 4th respondent herein, quash the same and consequently, direct the respondents herein to disburse the death-cum-terminal benefits and family pension payable to the petitioner in proportion to the 4th respondent in accordance with law together with interest thereon at 12% p.a., for the belated disbursement.

For Petitioner: Mr.S.Srinivasa Raghavan

For R1 to R3 : Mr.T.Sakthikumaran,
Standing Counsel.

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of



the second respondent dated 27.03.2020, insofar as compelling the petitioner to get consent letter / No Objection from the 4th respondent herein, quash the same and consequently, direct the respondents herein to disburse the death-cum-terminal benefits and family pension payable to the petitioner in proportion to the 4th respondent in accordance with law together with interest thereon at 12% p.a., for the belated disbursement.

2.Heard Mr.S.Srinivasa Raghavan, learned counsel appearing for the petitioner and Mr.T.Sakthikumaran, learned Standing Counsel, who takes notice for the respondents 1 to 3.

3.With the consent of the learned counsel appearing on either side, this Writ Petition is taken up for final hearing and disposed of at the admission stage itself. Since no adverse order is going to be passed against the fourth respondent, notice to the fourth respondent is dispensed with.

4.The petitioner is the wife of the deceased employee, who was working as Lineman at the respondent TANGEDCO and he died, while he was in service on 27.09.2019. Therefore, the petitioner being the legally wedded wife of the deceased employee, in order to get the death cum terminal benefits payable to the her husband, seems to have approached the official respondents. However, the second respondent through the impugned order dated 27.03.2020 raised two issues. The first issue is that the fourth respondent, who is the mother-in-law of the petitioner and the mother of the deceased employee, is opposing for disbursement of the retirement benefits to the petitioner and the second issue is that the petitioner's name is mentioned in the school records as R.Premakumari, whereas in the document now received by the respondent TANGEDCO from the petitioner, it is mentioned as R.Prema, therefore, clarification is sought for. Raising these issues, atleast for the time being, the request of the petitioner to disburse the death cum retirement benefits of her husband seems to have been turned down. Challenging the communication of the second respondent dated 27.03.2020, the present Writ Petition has been filed.

5.Heard Mr.S.Srinivasa Raghavan, learned counsel appearing for the petitioner, who would submit that, insofar as the second query with regard to the name of the petitioner, as to whether R.Premakumari or R.Prema, is concerned, an affidavit to that effect has been filed by the petitioner before the respondent TANGEDCO, on 04.03.2020 even prior to the impugned order. Insofar as the first query that the fourth respondent, who is the mother-in-law of the petitioner has resisted to disburse the amount towards the petitioner is concerned, the learned counsel appearing for the petitioner would submit that, the petitioner is ready and willing to share 50% of the retiral benefits with the fourth respondent and the said aspect since could not be understood by the fourth respondent, it is difficult to bring the fourth respondent into



settlement and ultimately, get no objection from the fourth respondent to produce the same before the TANGEDCO to resolve the issue. Therefore, the learned counsel appearing for the petitioner would submit that, let the respondent TANGEDCO hear both the petitioner as well as the fourth respondent and accordingly, decide the entitlement of sharing entire death cum retiral benefits of her husband and based on such decision to be made by the respondent TANGEDCO, final order can be passed by them disbursing the said amount.

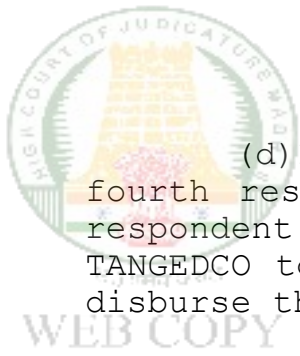
6.Heard Mr.T.Sakthikumaran, learned Standing Counsel appearing for the respondents, who would submit that because of the opposition or resistance come from the fourth respondent, who is the mother-in-law, who is also one of the legal heirs of the deceased employee and would be entitled to get some share of death cum retiral benefits of the employee, the respondent TANGEDCO was not in a position to disburse the same as claimed by the petitioner, that is why, the said query was raised through the impugned order. So far as the second query, pertaining to the name of the petitioner, since the petitioner has filed an affidavit, that would be taken care of and accordingly, a decision would be taken.

7.In view of the said submissions made by the learned counsel on either side and having regard to the said factual matrix of this case, this Court is inclined to dispose of this Writ Petition with the following orders:-

(a)Accordingly, the impugned order of the second respondent is quashed and the matter is remitted back to the respondent TANGEDCO for re-consideration.

(b)While re-considering the same, the respondent TANGEDCO can issue notice to both the petitioner as well as the fourth respondent separately, fixing the date for enquiry and on the date, if the petitioner and the fourth respondent appear before the respondent TANGEDCO, limited enquiry can be conducted and accordingly, a decision can be made by the TANGEDCO as to how the death cum retiral benefits of the deceased employee has to be disbursed.

(c)In this regard, if any agreement reached between the petitioner and the fourth respondent to share 50% each or otherwise, according to the agreement reached between them, entire death cum retiral benefits can be disbursed in accordance with law and accordingly, disbursement can be made by the respondent TANGEDCO to both the petitioner as well as the fourth respondent. The needful as indicated above shall be undertaken by the respondent TANGEDCO, within a period of three months from the date of receipt of a copy of this order.



(d)It is made clear that if either the petitioner or the fourth respondent does not turn down to the notice issued by the respondent TANGEDCO as indicated above, it is open to the respondent TANGEDCO to take a decision in accordance with law and accordingly, disburse the death cum retiral benefits.

8.With this direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Myr

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 Superintending Engineer,
TANGEDCO, Greater Town,
Madurai.

2.The Executive Engineer,
(Distribution) North,
K.Pudur, Madurai-625 007.

3.The Assistant Engineer,
(Distribution) Thamukkam,
Thallakulam, Madurai.

+2 CC to M/s.S. SRINIVASA RAGHAVAN, Advocate (SR-17237[F]
dated 17/09/2020)

+1 CC to M/s.T. SAKTHIKUMARAN, Advocate (SR-17225[F]
dated 17/09/2020)

Order made in
W.P. (MD)No.11797 of 2020
16.09.2020

ARK (CO)

NR (06/11/2020) 4P : 7C

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