



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2020

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P. (MD)No.18796 of 2020

S.Irulayee

...Petitioner

Vs

1.The Director General of Police,
Kamarajar Salai, Mylapore, Chennai -4.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Chennai - 600 008.

3.The Accountant General,
Accounts and Entitlements,
361, Annasalai, Teynampet, Chennai.

4.Kasthuri

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to sanction the petitioner's husband's service terminal benefits and family pension from the date of his death on 31.01.2020 on the basis of the petitioner's representation dated 23.10.2020 within a stipulated time as may be fixed by this Court.

For Petitioner	: Mr.A.Rajaram
For R1 and R2	: Mr.M.Jayakumar Additional Government Pleader
For R3	: Mr.P.Gunasekaran

ORDER

This Writ Petition is filed to direct the respondents to sanction the service terminal benefits and family pension of the petitioner's husband to the petitioner from 31.01.2020, by considering the representation, dated 23.10.2020.

2.By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

<https://hcservices.courts.gov.in/hcservices/> 3.The learned counsel appearing for the petitioner would



submit that the petitioner's husband was working as Special Sub Inspector of Police and on attaining the age of superannuation, he retired from service on 30.09.2019. Thereafter, the petitioner's husband died on 30.01.2020.

4. The learned counsel would further submit that the petitioner herein is the 1st wife of the deceased husband and the 4th respondent herein is the 2nd wife of the deceased husband. He would further submit that the petitioner herein is legally entitled for the terminal benefits and family pension payable to her husband. In this regard, though the petitioner has made a representation, dated 23.10.2020 to the respondents 1 to 3, no action has been taken so far. Hence, left with no other alternative, the petitioner is before this Court.

5. Mr. M. Jeyakumar, who accepts notice on behalf of the respondents 1 and 2, would fairly submit that if the petitioner produces the relevant documents in order to prove that she is the 1st wife as well as the legal heir of the deceased husband, her representation, dated 23.10.2020 would be considered on merits and in accordance with law, after issuing notice to the 4th respondent, if necessary.

6. Heard the learned counsel on either side and perused the materials available on record.

7. Without providing relevant documents like the legal heir certificate and others in order to prove that the petitioner is the only legal heir of her deceased husband, she has made a representation, dated 23.10.2020 to the respondents 1 to 3 explaining her grievance. The petitioner also admitted the fact that the 4th respondent herein is the 2nd wife of the deceased husband.

8. Law is settled that the 1st wife of the deceased employee is the sole legal heir to get the terminal benefits and family pension payable to the deceased employee and not the 2nd wife of the deceased employee, except the children, who have not completed 25 years and born to the deceased husband by the 2nd wife.

9. In view of the settled position of law, this Court is inclined to pass the following directions:-

i) the petitioner is directed to give fresh representation to the 1st respondent along with relevant documents to prove that she is the legal heir of her deceased husband, within a period of two weeks from the date of receipt of a copy of this order, in which case, the 1st respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law, within a period of twelve weeks therefrom;



ii) if the 1st respondent come to the conclusion that the petitioner is entitled for terminal benefits and family pension payable to her husband, he is directed to send a proposal to the 2nd respondent and on receipt of the same, the 2nd respondent is directed to forward the such proposal to the 3rd respondent to disburse the same to the petitioner, in which case, the 3rd respondent is directed to sanction the terminal benefits and family pension payable to the petitioner's husband to the petitioner; and

iii) the aforesaid exercise shall be completed within a period of three months from the date of receipt of a copy of this order;

10. With the above directions, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

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 General of Police,
Kamarajar Salai, Mylapore, Chennai -4.

2. The Commissioner of Police,
Office of the Commissioner of Police,
Chennai - 600 008.

+1 cc to Mr.A.Rajaram , Advocate SR.No.26572

+1 cc to The Special Government Pleader Sr.No.26711

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