



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2020

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.5816 of 2014

1.Kalyani
2.Panchavarnam : Petitioners

Vs.

1.The Director,
The Local Fund and Auditing,
Kuralagam, Chennai.

2.The Commissioner,
Karaikudi Municipality,
Karaikudi.

3.Ganesan

4.Arumugam : Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for Writ of Mandamus directing the first respondent to recover the death cum retirement benefits of the petitioner's father already disbursed to the third and fourth respondents and disburse the death cum retirement benefits of the petitioner's father equally to all the legal heirs of the petitioner's father based on the representation of the second petitioner herein made to the first respondent dated 29.01.2014.

For Petitioner : Mr.K.Kannan

For R1 : Mr.P.Mahendran
Additional Government Pleader

For R2 : Mrs.K.Ezhilselvi

For R3 & R4 : No appearance

O R D E R

The writ on hand is filed to direct the first respondent to recover the death cum retirement benefits of the petitioner's father already disbursed to the third and fourth respondents and disburse the death cum retirement benefits of the petitioner's



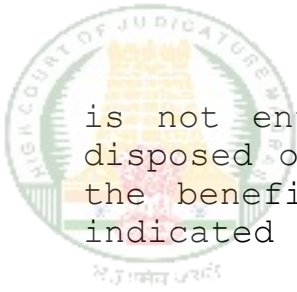
father equally to all the legal heirs of the petitioner's father based on the representation of the second petitioner herein made to the first respondent dated 29.01.2014.

2. The prayer as such in the writ petition is absolutely misconceived. Pension and pensionary benefits are to be disbursed in favour of the spouse of the employee. As per the pension scheme, the spouse of the employee concerned is entitled to get all the retirement and pensionary benefits. Only if no spouse is available, then, such benefits are to be settled in favour of the legal heirs as per the Succession laws. Thus, the very relief sought for deserves no merit consideration. The petitioners have not established even semblance of legal right so as to consider the relief as such sought for.

3. The learned Additional Government Pleader appearing on behalf of the first respondent brought to the notice of this Court that the terminal and pensionary benefits of the deceased employee namely Mr.Valliyappan is yet to be settled. The amount has not been settled in favour of the respondents 3 and 4 as claimed in the writ petition. However, the wife is the nominee as per the service records and therefore, the respondents 1 and 2 are bound to settle all the terminal and pensionary benefits including the monthly pension in favour of the wife of the deceased employee namely one Smt. Mookkayee. The wife of the deceased employee is not party in the present writ petition. Thus, she is entitled for interest as per the rules for belated settlement of terminal benefits.

4. It is brought to the notice of this Court that the respondents 1 and 2 have not settled the terminal and pensionary benefits in favour of the wife of the deceased employee due to the pendency of the writ petition. Such action is improper in view of the fact that the wife of the deceased employee is not a party in the present writ petition. However, as per the pension rules, the spouse of the deceased employee is entitled to get all the terminal and pensionary benefits and interest for the belated settlement as per the rules.

5. Thus, the second respondent is directed to send the proposal to the first respondent and to the competent authorities for sanction and disbursement of pensionary benefits in favour of the wife of the deceased employee. Such action is directed to be taken and pension is directed to be disbursed within a period of four months from the date of receipt of a copy of this order. Though the wife of the deceased employee is not a party, this direction is issued in the interest of justice and a poor widow is left without pensionary benefits and struggling for livelihood. Consequently, the relief sought for in the present writ petition



is not entertainable and accordingly, this writ petition stands disposed of with a direction to the respondents 1 and 2 to settle the benefits in favour of the wife of the deceased employee as indicated above. No costs.

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Sd/-

Assistant Registrar (CS)

// True Copy //

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Sub Assistant Registrar(CS)

Tsg-2/CM

To

1.The Director,
The Local Fund and Auditing,
Kuralagam, Chennai.

2.The Commissioner,
Karaikudi Municipality,
Karaikudi, Sivagangai District.

+1 CC to SGP (SR-21106[F] dated 04/11/2020)

+1 CC to Mr.R. SARAIVANAN, Advocate (SR-21175[F] dated 04/11/2020)

Order in
W. P (MD) No. 5816 of 2014
03.11.2020

SSS (CO)

KM (11.11.2020) 3P 5C