

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4751 of 2021

and

W.M.P.No.5362 of 2021

I.Arockia Mary

... Petitioner

Vs

1. The Dean,
Government Stanley Medical College Hospital,
Old Jail Road, Chennai - 600 001.

2. The Financial Administrative Officer,
Government Stanley Medical College Hospital,
Old Jail Road, Chennai - 600 001.

3. K.Chitra

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 to furnish computation of all death benefits of Late Mr.K.Dharmalingam (having employee ID No. 120205/Medi as per the last ID card issued in March 2017 issued by the Government Stanley Medical College Hospital at Chennai in view of his death in service on 20.08.2020, including the compensation eligible for medical staff as declared by the State of Tamil Nadu for death of Medical Staff arising out of Covid 19 Disease, within a time frame fixed by this Hon'ble Court.

For Petitioner : M/s.Chennai Law Associates
For Respondents : Mr.B.Karthikai Balan, GA

सत्यमेव जयते
ORDER

The relief sought for in this writ petition is to direct the respondents 1 and 2 to furnish computation of all death benefits of Late Mr.K.Dharmalingam (having employee ID No. 120205/Medi as per the last ID card issued in March 2017 issued by the Government Stanley Medical College Hospital at Chennai in view of his death in service on 20.08.2020, including the compensation eligible for medical staff as declared by the State of Tamil Nadu for death of Medical Staff arising out of Covid 19 Disease, within a time frame fixed by this Hon'ble Court.

2.Mr.B.Karthikai Balan, learned Government Advocate takes notice for the respondents. By consent, final orders are passed in the Writ Petition at the admission stage.

3. According to the petitioner, one K.Dharmalingam who was employed in the 2nd respondent Hospital as a Lab Supervisor died on 20.08.2020. After his death, the petitioner started claiming right over the retirement benefits payable to him, on the basis of a Will dated 13.06.2018, said to have been executed by the deceased K.Dharmalingam in favour of the writ petitioner when he was alive, bequeathing on her all his service benefits due to him. According to the petitioner, the 3rd respondent is the wife of the deceased employee, however, they got separated and a matrimonial dispute regarding divorce is pending.

4. In fact, on earlier occasion, the petitioner and the mother of the deceased approached this Court by way of filing a writ petition in W.P.No.14758 of 2020 for disbursement of service benefits of the deceased employee and this Court, by an order dated 13.10.2020, while dismissing the said Writ Petition, observed as follows:

"2. This Court is unable to entertain this writ petition for the simple reason that the first petitioner has no locus standi to claim any right over the asset of the deceased K.Dharmalingam. The relationship which is sought to be established by the first petitioner with that of the deceased K.Dharmalingam appears to be questionable and doubtful and on what circumstances, the so called Will was executed, cannot be examined by this Court in the exercise of its jurisdiction under Article 226 of Constitution of India.

3. In any event, a claim based on a Will cannot be entertained by this Court, as it is a matter of evidence to prove the veracity of the Will by letting in evidence and in such circumstances this Court cannot entertain this writ petition.

4. It is open to the petitioner to approach the appropriate forum to workout her remedies and as far as the present writ petition is concerned, this Court is not inclined to entertain, as the writ petition it is not maintainable, at the instance of the first petitioner and also no adjudication could be undertaken by this Court in respect of the claim on the basis of the so called Will executed by the deceased employee".

5.It is very unfortunate that despite dismissal of the earlier Writ Petition, categorically holding that the writ petition is not maintainable and giving liberty to the petitioner to approach the appropriate forum to workout her remedies, the petitioner has come forward again with the present writ petition seeking relief based on the so-called Will. When the matter was taken up on the earlier occasion, this Court informed the petitioner that a cost of Rs.50,000/- will be imposed since the petitioner has again approached this Court by way of the present writ petition, despite this Court's observation that the so called Will said to have been executed by the deceased K.Dharmalingam, cannot be examined by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India and it is a matter of evidence to prove the veracity of the Will by letting in evidence. Therefore, the approach of the petitioner in this regard amounts to misleading the Court and therefore the petitioner is reprimanded and warned not to repeat the same.

6.Accordingly, this writ petition is dismissed as not maintainable. However, the petitioner is at liberty to approach the appropriate forum and workout her remedy in the manner known to law. In case the petitioner again approaches this Court for the same / similar relief artistically wording the prayer, cost up to Rs.1,00,000/- will be imposed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mtl

To

1. The Dean,
Government Stanley Medical College Hospital,
Old Jail Road, Chennai - 600 001.
2. The Financial Administrative Officer,
Government Stanley Medical College Hospital,
Old Jail Road, Chennai - 600 001.

+1cc to the Government Pleader, S.R.No.15824.

W.P.No.4751 of 2021

GPL(CO)
CSR 31.03.2021