



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.18472 OF 2015

Mrs.R.Manjula

...Petitioner

-Vs-

1.The Chief Engineer,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

2.The Financial Advisor &
Chief Accounts Officer,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

3.Mr.R.Babu

...Respondents

(R3 impleaded vide order dated
05/04/2019 in WMP.10398/2019
in WP.18472/2015)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to grant family pension to the petitioner with interest from the date of claim.

For Petitioner : Mr.R.Manimuthu

For R1 & R2 : Mr.K.Lavan

For R3 : Not ready on notice

ORDER

The petitioner herein claims to be the legally wedded wife of late T.Sundareswaran, who was employed as a Gardner in the Chennai Port Trust. According to the petitioner, she was married on 03.03.2006 at Om Gangai Vinayagar Kalyana Maligai, Chennai, as per Hindu rites and customs. The marriage invitation as well as the marriage photos have been produced before this Court.



2. It is claimed that the marriage was attended by many of the employees of the Chennai Port Trust. On 26.09.2013, the petitioner's husband died and the legal heirship certificate issued by the Tahsildar on 24.12.2013, evidences the petitioner to be his widow. The petitioner's husband's father and mother have issued no objection letters on 20.08.2014, stating that they have no objection if the death benefits and family pension are settled and disbursed in favour of the petitioner herein. In another letter dated 03.01.2015, the parents of the deceased employee had given a complaint to the Vigilance Officer, stating that the death-cum-retirement gratuity benefits should be settled in their favour and that the family pension can be given to the petitioner herein. It is in this background, the death-cum-retirement gratuity benefits as well as the family pension has been withheld by the Chennai Port Trust.

3. While the learned counsel for the petitioner submits that though they do not have proof of the marriage registration, but the marriage indeed took place on 03.03.2006, as evidenced in the invitation cards, marriage photos, legal heirship certificates and ration card, the learned counsel appearing for the Chennai Port Trust would submit that since there is no evidence for the marriage between the petitioner and the late employee, they are not in a position to disburse the benefits. It is also his submission that there was a complaint against the petitioner on 24.09.2014, stating that the petitioner and her husband were divorced in 2008.

4. A mere absence of a marriage registration certificate would not deprive a legally wedded wife to claim the pensionary benefits and that too on the basis of a complaint received by the respondents. The complaint referred to by the learned counsel for the respondents, dated 24.09.2014, does not reveal as to who had sent the complaint and there is also no record to substantiate that, pursuant to the complaint, the Chennai Port Trust had conducted an enquiry to verify the authenticity of such an anonymous complaint.

5. Furthermore, the retired employees of the Chennai Port Trust are regulated through the Chennai Port Trust (Family Pension) Regulations, 1987. As per Clause 46 and 50 of the Regulations, a divorced wife would also be entitled for receiving the gratuity amount. Even assuming that the averments in the complaint is true, the same would not deprive the petitioner from receiving the monetary benefits owing to the death of the employee, in view of the aforesaid Regulations.

6. In situations like this, when the marriage of the widow and late employee is not substantiated through a registration certificate, the employer will not be justified in indefinitely holding the death benefits, but rather would be justified, if



they disburse the same after obtaining an affidavit declaring the marriage between the petitioner and her husband, as well as an indemnity bond to indemnify the benefits received in case of any counter claims at a later stage. By taking note of the legal heirship certificate, the ration card, marriage invitation card and the marriage photos produced before this Court, this Court is of the view that the petitioner could be entitled for the monetary benefits, owing to the death of her late husband.

7. In the light of the above observations, the petitioner herein is called upon to give a fresh request, by way of a representation to the first and second respondents herein, seeking for disbursement of the death-cum-retirement benefits, including the family pension, along with a duly sworn affidavit declaring her marriage with late T.Sundareswaran and that the marriage is still in existence, apart from a indemnity bond to indemnify the amounts to be received, in case of any counter-claims. The representation shall be accompanied by a no objection letter from the parents of late T.Sundareswaran, stating that they will not have any objection if the death-cum-retirement gratuity, including family pension, is paid to the petitioner herein. The respondents shall endeavour to pass such orders and disburse the amounts, as expeditiously as possible, in any event, within a period of six (6) weeks from the date of receipt of the petitioner's representation.

8. The Writ Petition stands disposed of, accordingly. No costs.

Sd/-
Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

hvk

To:

1.The Chief Engineer,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

2.The Financial Advisor &
Chief Accounts Officer,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

+3ccs to Mr.R.Manimuthu, Advocate SR.No.68480
+1cc to Mr.K.Lavan, Advocate SR.No.68579

W.P.No.18472 of 2015

SVI (CO)
RVM(12/01/2022)