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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 2275 of 2012

K.Thilakam

... Petitioner

-vs-

1. The Director of Municipal Administration,
Chepauk, Chennai - 600 005.

2. The Commissioner,
Chennai Corporation,
Ripon Buildings, Park Town,
Chennai - 600 003

3. The Zonal Officer, Zone - 1,
Chennai Corporation,
Former Tiruvotriyur Municipality Office,
Tiruvotriyur High Road,
Chennai - 600 019.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to pay the petitioner, the Death Cum Retirement Benefits, earned monthly salary for the period commencing from 01.07.1986 to 26.07.1986, Leave Encashment, Funeral Expenses, provident Fund, Family Pension etc., of the petitioner's deceased son K.Manoharan, together with compound interest wherever it is applicable and to order costs.

For Petitioner : Mr.P.K.Mohan Vel

For Respondents : Mrs.K.Bhuvaneswari
Additional Govt. Pleader for R1
Mr.R.Gopinath
Standing counsel for R2 and R3

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to pay the petitioner, the Death Cum Retirement Benefits, earned monthly salary for the period



commencing from 01.07.1986 to 26.07.1986, Leave Encashment, Funeral Expenses, provident Fund, Family Pension etc., of the petitioner's deceased son K.Manoharan, together with compound interest wherever it is applicable and to order costs.

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2. The petitioner's son one K.Manoharan was working at the erstwhile Tiruvotriyur Municipality as Junior Engineer and while he was working, he died suddenly due to ailment on 26.07.1986. After his sudden death, the Death-cum-Retirement Benefits as well as other service benefits like Provident Fund, Special Provident Fund etc., had not been calculated and disbursed to the petitioner, who is none other than the mother of the deceased employee, as the deceased employee was a bachelor till his death, the petitioner being the mother is the only legal heir and therefore, she claimed the said DCRG and other benefits payable to her deceased son. In this regard on 05.05.2000, the petitioner had given a representation to the respondents, since the same was not considered, she had approached the Tamil Nadu Administrative Tribunal by filing O.A. No. 4826 of 2000, where, the Tribunal has given a direction to the petitioner to give the copy of the said representation or a fresh representation to the respondents and on receipt of the same, a direction was given to the respondents to decide the same and disburse the retirement benefits.

3. Subsequently, there has been number of correspondence between the petitioner and the respondents and in the meanwhile, since the Tiruvotriyur Municipality has got merged with the Chennai Corporation, i.e., the present respondents, the employees who were working in Tiruvotriyur Municipality, their records as well as the liability had been transferred to Chennai Corporation and the Chennai Corporation since is the present employer, the petitioner had been continuously now corresponding with the present respondents.

4. Though the petitioner had given the said request for disbursement of the benefits of her deceased son by her representation dated 08.09.2000 to the erstwhile Commissioner, Tiruvotriyur Municipality and a legal heir certificate to that effect also having been obtained from the Revenue Department was annexed or sent by the petitioner, it seems that, there is no fruitful action taken on the respondents side and ultimately the erstwhile Tiruvotriyur Municipality had sent a communication stating that, the records pertaining to the petitioner's deceased son along with other connected records of the Municipal Office was kept in a record room which was locked and sealed in relation to a litigation in the year 2001 pertaining to the local body election and nearly about five years and more, the records room were kept closed, the records could not be traced immediately and once the records are traced, the same would be



forwarded to the concerned authority for deciding the issue and disbursing the amount with regard to the DCRG and other benefits payable to the petitioner on behalf of her deceased son.

5. Only at this juncture, the petitioner has moved this Writ Petition in the year 2012 with aforesaid prayer of Mandamus.

6. Heard Mr.P.K.Mohan Vel, learned counsel appearing for the petitioner who would submit that, the petitioner being the mother of the deceased employee, is the only legal heir and in this regard, the legal heir certificate issued by Taluk Office, Vellore dated 31.07.1986 had already been forwarded to the respondents and a copy of the same also has been filed before this Court in the typed set of papers. He would also submit that, though a stand has been taken by the erstwhile Tiruvotriyur Municipality that, the records including the records pertaining to the service of the petitioner's son were kept in the record room, which was closed and was sealed for five years and more, subsequently, the record room definitely would have been opened and based on which, the relevant records would have been forwarded to the present authority, i.e., the respondents / Chennai Corporation and based on which, a decision could have been arrived at, however, no such action seems to have been taken on behalf of the respondents. Therefore, the learned counsel seeks indulgence of this Court to issue a Writ of Mandamus.

7. However, Mr.R.Gopinath, learned Standing counsel appearing for the second and third respondents would submit that, a counter affidavit has been filed by the respondents, where, they have taken a stand that, there is no legal heir certificate submitted by the petitioner to establish that, the petitioner is the only legal heir to receive the benefits payable to her deceased son.

8. In this context, it is the further contention of the learned Standing counsel appearing for the second and third respondents by relying upon the averments made in the counter affidavit that, the petitioner is only a step-mother of the deceased employee and therefore, in this regard, unless and until, a conclusive proof by way of legal heir certificate to inherit the estate of the deceased employee including the Death-cum-Retirement benefits is submitted before the respondents, it cannot be further processed. Therefore, for that reason only, it has been kept pending for all these years and for such a delay in disbursing DCRG as claimed by the petitioner, the respondents cannot be blamed, he contended.

9. I have considered the rival submissions made by the learned counsel appearing for both sides and have perused the



materials placed on record.

10. It is not in dispute that, the petitioner's son was the employee of the erstwhile Tiruvotriyur Municipality and he worked for 4 ½ years and while he was working as Junior Engineer, he died suddenly on 26.07.1986. Therefore, whatever the DCRG and other benefits which are to be payable to the legal heir of the deceased employee should be paid.

11. In this context, it is the claim of the petitioner that, the said employee Manoharan, son of the petitioner, was a bachelor and even though as per the legal heir certificate, there are two brothers and one sister, since the petitioner being the mother as a first class legal heir, she would succeed the estate of the deceased and therefore, she would be fully entitled to receive the DCRG and other benefits payable to the deceased employee.

12. The said contention made on behalf of the petitioner cannot be disputed as there is no contra documents filed by any party before this Court.

13. In this context, if we pursue the legal heir certificate dated 31.07.1986 issued by the Taluk Office, Vellore, i.e., the Tahsildar, Vellore, it discloses the following:

"I do hereby certify that Selvan K.Manoharan son of K.V.Krishnamurthy who lastly resided at No.73, Sheriff Nagarm Allapuram Village, Vellore Taluk died on 26.07.1986 leaving behind him the following persons as his herein :

S.No	Name	Relationship	Age
1	K.V.Krishnamurthy	Father	45
2	K.Thilagam	Mother	31
3	K.Nedumaran	Brother	16
4	K.Sankar	Brother	10
5	K.Sangeetha	Sister	8

14. Therefore, it has become clear that, since the father of the deceased also died and one of the brother also deceased, assuming that, a brother and a sister are alive, since the mother being the first class heir is alive, she would be entitled to succeed the estate of the deceased. Therefore, whatever the DCRG and other benefits payable to the deceased employee shall be paid only to the mother, who is none other than the petitioner. Therefore, this Court feels that, there can be no further impediment for the respondents to disburse the Death-cum-Retirement Benefits to the petitioner.



15. In this context, despite the earlier direction had been given in the first round of litigation by the Tamil Nadu Administrative Tribunal, as early as in the year 2000 itself, nothing was forthcoming from the respondents side, for which, even though the reason was given that, the records pertaining to the deceased employee have been kept in the sealed room of the erstwhile Tiruvotriyur Municipality, that position cannot be expected to continue even till today, therefore, this Court feels that, a direction can be given to the respondents to act upon quickly on the representation of the petitioner for disbursement of the DCRG of the deceased son of the petitioner within a time frame.

16. In the result, this Court is inclined to dispose of this Writ Petition with the following orders:

"(i) That the respondents are hereby directed to consider the request of the petitioner being the mother of the deceased employee one Manoharan, the erstwhile Junior Engineer of the erstwhile Tiruvotriyur Municipality who died during the service on 26.07.1986 and accordingly, calculate the DCRG and other benefits, for which, the deceased employee was entitled to and disburse the same to the petitioner after getting appropriate acknowledgment from the petitioner.

(ii) In this regard, since the legal heir certificate obtained by the petitioner from the Tahsildar Office, as quoted herein above, has already been filed, no further requirements of legal heir certificate as demanded by the respondents, is required to be produced.

(iii) The needful as indicated above shall be undertaken by the respondents and the DCRG and other amounts / benefits, indicated above, shall be disbursed to the petitioner within a period of eight weeks from the date of receipt of a copy of this order."

17. With these directions, this Writ Petition is ordered accordingly. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

vji



To

1. The Director of Municipal Administration,
Chepauk, Chennai - 600 005.

2. The Commissioner,
Chennai Corporation,
Ripon Buildings, Park Town,
Chennai - 600 003

3. The Zonal Officer, Zone - 1,
Chennai Corporation,
Former Tiruvotriyur Municipality Office,
Tiruvotriyur High Road,
Chennai - 600 019.

+1cc to Mr.PK.Mohanvel, Advocate, S.R.No. 15070
+1cc to Mr.R.Gopinath, Advocate, S.R.No. 14767
+1cc to the Government Pleader, S.R.No. 15439

W.P. No. 2275 of 2012

LN(CO)
GN(13/07/2021)