

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 16.03.2021
CORAM :
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P.No.6766 of 2021

A. Amirtha Gowri

... Petitioner

Vs

1. The Additional Chief Secretary/Commissioner of
Revenue Administration, Chepauk
Chennai 600 005.

2. The District Collector
Salem 636 001.

3. The District Adi Dravidar
and Tribal Welfare Officer
Salem 636 001.

.... Respondents

Prayer: Writ petition filed under Article 226 of the
Constitution of India, praying to issue a writ of Mandamus,
directing the respondents 2 and 3 to disburse the retirement
benefits to the petitioner such as

1. Earned leave and unearned leave on private affairs encashment.
2. Special Provident Fund Encashment
3. Family Security Fund of Rs.3,00,000/-
4. Interest towards Death cum retirement Gratuity of
Rs.3,60,492/-
5. Life time arrears i.e., difference in payment of pension from
01.01.2007 to 31.03.2019 payable to her deceased husband.
6. Interest for the delayed payment of retirement benefits.

For Petitioner : Mr.A.Nagarathinam

For Respondents : Mr.P.Karthikeyan

Additional Govt.Pleader

ORDER

This writ petition has been filed, seeking a direction to
the respondents 2 and 3 to disburse the retirement benefits to
the petitioner such as Earned leave and unearned leave on
private affairs encashment, Special provident fund Encashment,
Family security fund of Rs.3,00,000/-, Interest towards Death
cum retirement Gratuity of Rs.3,60,492/-, Life time arrears
i.e., difference in payment of pension from 01.01.2007 to
31.03.2019 payable to her deceased husband and Interest for the
delayed payment of retirement benefits.

2. Mr.P.Karthikeyan learned Additional Government Pleader takes notice for R1 to R3. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that her husband D.Anantha Krishnan was retired from service as Special Tahsildar in the Adi Dravidar Welfare Department at Attur, Salem District, after attaining the age of Superannuation on 31.12.2006. During his service the second respondent issued a charge memo dated 31.12.2006 alleging that her husband issued a legal heir certificate to one Mrs.Saraswathi mentioning that she is the only legal heir of Mr.Shanmugasundaram. Hence he was placed under suspension by order dated 31.12.2006 and in view of the departmental proceedings his service was extended under Rule 56 (1) (c) of the Fundamental Rules. He was paid subsistence allowance from 01.01.2007 onwards by the District Adi Dravidar Welfare Officer, Salem. Subsequently he was permitted to retire without prejudice to the disciplinary proceedings against him by an order dated 20.02.2015 issued by the District Collector, Salem. Thereafter he was sanctioned provisional pension of Rs.10,965/- with effect from 01.01.2017 as per the Tamil Nadu Government Pension Rules, 1978. After conducting department proceedings, the enquiry officer submitted his enquiry report. The first respondent passed a final order dated 08.04.2017 imposing a fine of Rs.500/- for 12 months to be deducted from his pension. Then the second respondent passed an order dated 20.10.2017 permitting the petitioner's husband to retire from service with effect from 31.12.2006 afternoon itself. The petitioner's husband died on 27.04.2019 and thereafter under the Authorisation of Accountant General, Chennai through the District Treasury Officer, Salem the petitioner was sanctioned the family pension of Rs.19,278/- per month and was paying monthly pension from 28.04.2019. The third respondent issued a letter dated 10.07.2020 informing that the petitioner's husband was permitted to retire from service on attaining the age of superannuation on the afternoon of 31.12.2006 and it is also stated that no disciplinary action is pending against the petitioner's husband and that no Government dues and Departmental dues pending recovery from the retiring employee.

4. Under these circumstances the petitioner made a representation on 10.09.2020 to the third respondent to disburse the retirement benefits though a sum of Rs.3,60,492/- was paid towards death cum retirement gratuity but the interest for the delayed payment has not been paid. Hence the petitioner made a representation dated 28.02.2021 to the 2nd & 3rd respondents to disburse the benefit as stated above in the prayer. Since there was no response, the petitioner has filed the present writ petition.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's

representation is already pending with the 2nd & 3rd respondents and if the representation is not already disposed of earlier, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 2nd & 3rd respondents herein to consider the representation preferred by the petitioner dated 28.02.2021 if the petitioner is found to be eligible and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 120 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 2nd & 3rd respondents shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 28.02.2021 and this order, to the 2nd & 3rd respondents forthwith;

v) The 2nd & 3rd respondents are directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

WEB COPY

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

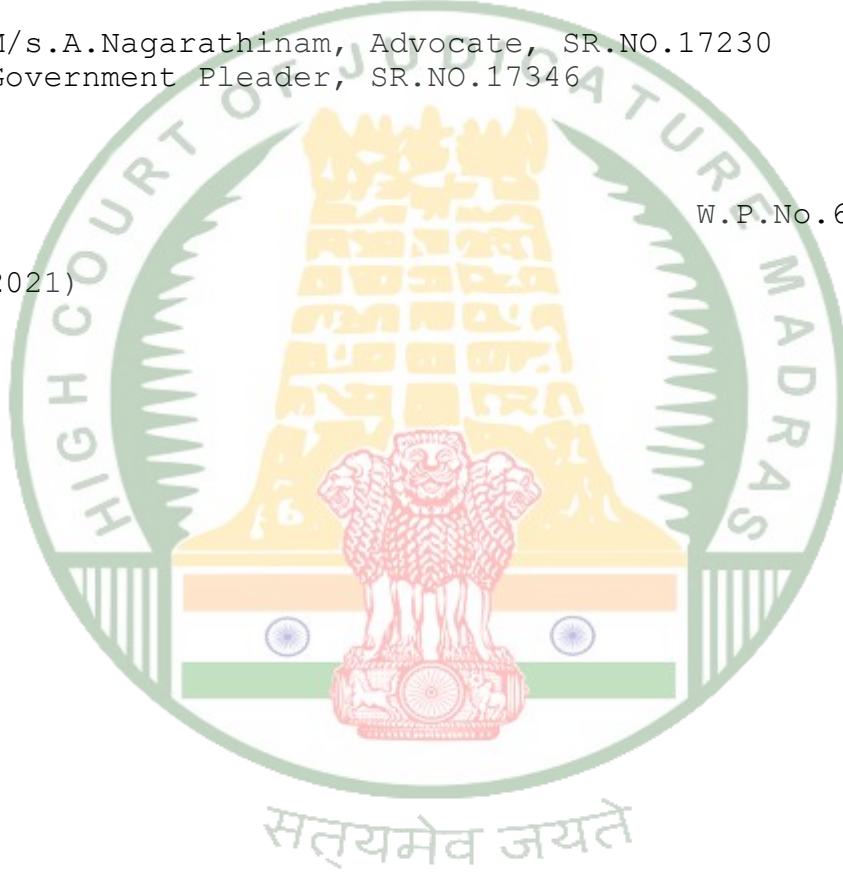
1. The Additional Chief Secretary/Commissioner of
Revenue Administration, Chepauk
Chennai 600 005.
2. The District Collector
Salem 636 001.
3. The District Adi Dravidar
and Tribal Welfare Officer
Salem 636 001.

+1 cc to M/s.A.Nagarathinam, Advocate, SR.NO.17230

+1 cc to Government Pleader, SR.NO.17346

W.P.No.6766 of 2021

PMK(CO)
NS(13/05/2021)



WEB COPY