



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.7.2021

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.NO.6157 of 2020

Selvi alias Selvarani
W/o. Natarajan

...Petitioner

Vs.

1. The Accountant General
Tamil Nadu & Puducherry Circle
361, Anna Salai
Chennai 600 018.
2. The Director of Survey & Land Records
Chepauk, Chennai 600 005
3. The Assistant Director
Department of Survey & Land Records,
Vellore - 9.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to calculate, pay and settle the terminal benefits including the back wages at 50% as ordered by this Hon'ble Court in W.P. No.6898 of 2007 (T) dated 04.03.2014 till his retirement along with interest at the rate of 9% p.a. for the belated payment.

For Petitioner	:	Mr. K. Govi Ganesan
For R1	:	Mrs. Sangamithirai
For R2 & R3	:	Mr. K.V. Sajeev Kumar
		Government Counsel.

ORDER

The petitioner herein is the daughter of one M. Nandhiapan, who was employed as a filed surveyor in the second respondent department and who had died on 02.10.2003. Prior to the death of late M.Nandhiapan, it is stated that, he was levelled with certain charges under Rule 17(b) of the Tamil Nadu (D&A) Rules and subsequently dismissed from service on 22.03.2002. The punishment was set aside by the orders passed by this Court in W.P. No.6898 of 2007. However, it is stated that the fact of the petitioner's death on 02.10.2003 was not brought to the notice of this Court while the final orders were passed. In this back



ground, the petitioner herein, who claims to be the only surviving legal heirs of the late M. Nandhiapan, had made a request for disbursal of the terminal benefits of her late father in her favour and since her request was kept pending indefinitely, she had chosen to file the present Writ Petition, seeking for issuance of a Writ of Mandamus for settlement of the terminal benefits of her late father.

2. The learned counsel appearing for the petitioner submitted that the Late M. Nandhiapan had married one Muniammal, who did not have any issues and he had thereafter married one Lalitha, through whom the petitioner and Amudha were born. It is further stated that the petitioner's sister Amudha died when she was 2-1/2 years old and therefore, the petitioner herein is the only surviving legal heir, who is entitled for the terminal benefits of Late M. Nandhiapan.

3. The learned Government Advocate placed reliance upon the averments made in the counter affidavit filed on behalf of the respondents dated 08.01.2021, in which it is clearly stated that the Late M. Nandhiapan had nominated Muniammal as his nominee for the purpose of receiving the gratuity and other terminal benefits and in the event of the nominee dying before receiving the gratuity and other terminal benefits, the petitioner and Amudha were nominated for receiving all the terminal benefits. It is also admitted in the counter affidavit that Amudha had died when she was 2-1/2 years old and the counter averments indicated that the petitioner herein alone is the only surviving legal heir of Late M. Nandhiapan.

4. There is no dispute that even though the petitioner herein is the daughter of the second wife of the late employee, she would be legally entitled for receiving the terminal benefits of her late father M. Nandhiapan. Moreso, when the original nominee, namely, Muniammal had died on 03.01.2007. Hence, the petitioner would be entitled to receive the terminal benefits of her late father M. Nandhiapan, as the late employee had nominated the petitioner as the person to receive the terminal benefits in the event of the original nominee namely, Muniammal, dying before receiving the gratuity and other retirement benefits. When such factual aspects have been categorically substantiated and that the counter averments also ratify that the petitioner has been nominated to receive the terminal benefits of Late M. Nandhiapan, I do not find any impediment on the part of the respondents 2 and 3 to disburse the terminal benefits of late M. Nandhiapan in favour of the petitioner.



5. It is also indicated by the learned Government Advocate that the proper course for the petitioner to receive the terminal benefits would be to obtain the succession certificate from the Court of Law. I am not in agreement with such submission made. When the respondents 2 and 3 have themselves admitted that the late employee had nominated the petitioner herein to receive the benefits and they have also admitted the petitioner to be the only surviving legal heir of the late employee, asking the petitioner to obtain the succession certificate would only be a futile process which would consume time. Above all, in the back ground of the facts of the present case, the succession certificate is not required to establish the rights of the petitioner.

6. In the light of the above observations, there shall be a direction to the respondents 2 and 3 to forthwith disburse all the monetary terminal benefits of late M.Nandhiapan in favour of the petitioner herein after obtaining necessary legal heirship certificate from the petitioner. The respondents 2 and 3 shall endeavour to disburse the monetary benefits of the late M. Nandhiapan as expeditiously as possible, in any event, within a period of eight(8) weeks from the date of receipt of a copy of this order. Accordingly, this Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS-III)

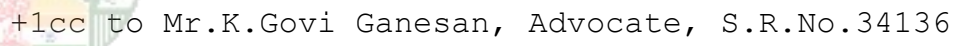
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Sub Assistant Registrar

Bga

Copy to

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PMK (CO)
CB (11/08/2021)