

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.34244 of 2014
and
M.P.No.1 of 2015

I.Jayaraj

...Petitioner

Vs

1. The Accountant General of Tamil Nadu,
Teynampet, Chennai 18.
2. The Director of School Education,
College Road,
Chennai 600 006.
3. The District Education Officer,
Dharmapuri.
4. The Head Master,
Girls Higher Secondary School,
Harur, Dharmapuri District.
5. The Treasury Officer,
Salem 636 007

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to pay all the terminal and pensionary benefits of petitioner wife including full family pension to petitioner with effect from her date of death on 26.12.2004 with arrears along with interest at the rate of 12% per annum and other consequential monetary benefits.

For Petitioner : Mr.R.Prem Narayanan

For Respondents : Mr.V.Vijaya Shankar for R1
Mr.A.Rajaperumal for R2 to R5
Additional Government Pleader

ORDER

The prayer made in this writ petition is to direct the respondents to pay all the terminal and pensionary benefits of the petitioner's wife including full family pension to the petitioner with effect from her date of death on 26.12.2004 with arrears along with interest at the rate of 12% per annum and other consequential benefits.

2. According to the petitioner, her wife by name Soundari was working as Teacher in the fourth respondent school and she died in the Tsunami disaster on 26.12.2004 at Velanganni along with her three children. Thereafter, the petitioner made application seeking terminal and pensionary benefits due to her wife, which was opposed by the father of the deceased employee stating that as per the Indian Succession Act, he is also entitled to claim the same and he filed OP.No.1 of 2008 before the Sub Court, Harur, seeking succession certificate and also obtained a decree in his favour. In view of the same, the respondents after withholding 50% of the family pension and other benefits, disbursed the remaining 50% of the same to the petitioner, which is contrary to the Tamil Nadu Pension Rules. Feeling aggrieved, the petitioner has come up with this writ petition for the aforesaid relief.

3. Upon notice, the respondents filed a detailed counter affidavit, wherein it is inter alia stated that the deceased Government servant nominated her husband i.e., the petitioner in her service register and she has not nominated her father as a nominee to receive the terminal and pensionary benefits on the occasion of her death and according to the legal heir certificate issued by the Revenue department, the petitioner alone is eligible to receive the pensionary benefits; however, the father of the deceased Government servant by name G.Danraj filed a succession petition in OP.No.1 of 2008 before the Sub Court, Harur and obtained a decree in his favour in order to get the pensionary and other terminal benefits of his daughter and the said decree was not challenged by the petitioner by filing any appeal; in view of the same, the Accountant General (A&E), Chennai has authorised 50% of pensionary benefits to the petitioner; and the remaining 50% of the same relating to the father-in-law of the petitioner has not been authorised for want of relaxation orders from the Government. It is also stated therein that though the father of the deceased Government servant is not eligible to get pensionary benefits, as per the Court orders, proposal for obtaining rules relaxation orders from the Government for authorising 50% of pensionary benefits to the father of the deceased Government servant has been sent

to the Government in Rc.No.58/2013 dated 26.10.2013 of the Headmaster, Govt. Girls Higher Secondary School, Harur and the order of the Government is still awaited.

4.The learned counsel for the petitioner stoutly opposed the averments made in the counter affidavit filed by the respondents. According to him, as per the Tamil Nadu Pension Rules as well the nomination filed by his wife, the petitioner being the husband of the deceased Government servant, is entitled to receive the entire family pension and other terminal benefits due to her wife, however, the respondents settled only 50% of the benefits to him. Hence, the learned counsel prayed for appropriate direction to the respondents in this regard, by considering the representation dated 01.12.2014 submitted by the petitioner.

5.On the other hand, the learned Additional Government Pleader appearing for the respondent department fairly submitted that the respondent concerned would consider the representation of the petitioner and pass orders, on merits and in accordance with law, within a reasonable time to be fixed by this Court.

6.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court directs the respondent concerned to consider the representation of the petitioner dated 01.12.2014, if not already considered and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to the petitioner as well as all the interested parties, within a period of eight weeks from the date of receipt of a copy of this order.

7.Accordingly, the writ petition stand disposed of. No costs. In view of the order so passed, MP.No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

msv

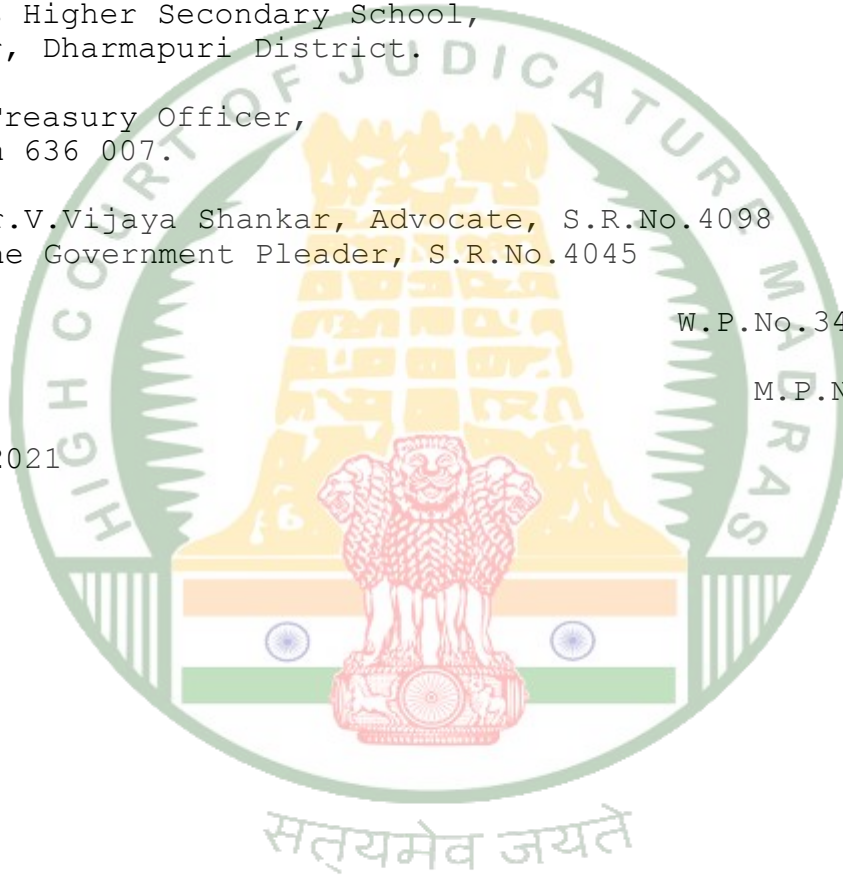
To

1. The Accountant General of Tamil Nadu,
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3. The District Education Officer,
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Harur, Dharmapuri District.
5. The Treasury Officer,
Salem 636 007.

+1cc to Mr.V.Vijaya Shankar, Advocate, S.R.No.4098
+1cc to the Government Pleader, S.R.No.4045

W.P.No.34244 of 2014
and
M.P.No.1 of 2015

SSD(CO)
CS/22/06/2021



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