



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 7260 of 2013

WEB COPY

P.Thangaraj

... Petitioner

-vs-

1.The Internal Audit Officer,
Tamil Nadu Electricity Board,
Board Office, Audit Branch,
N.P.K.R.R. Maaligai 1st Floor,
No.144, Anna Salai,
Chennai - 2.

2.Karuppiah

3.Chellammal

4.Packiam

... Respondents

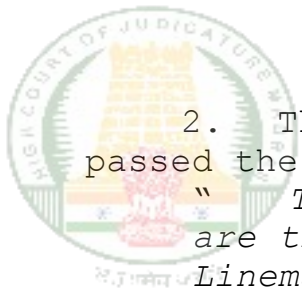
(R-2 to R-4 are impleaded vide order
dated 21.06.2016 in W.M.P. (MD) No. 8420 of 2016)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 19.12.2011 in Lr. No. 050348/697/PPO.1636R/ F14/F143/2011 of the Respondent, quash the same and consequently direct the Respondent to treat the Will executed by the father in favour of the petitioner as a nomination and to disburse the arrears of all terminal and pension fund amount.

For Petitioner : Mr. J.Anandkumar
For R1 : Mr. T.Sakthikumaran, Standing Counsel
For R2 to R4 : Mr. S.M.Mohan Gandhi

O R D E R
(through video conference)

Heard Mr. J.Anandkumar, Learned Counsel for the Petitioner and Mr. T.Sakthikumaran, Learned Standing Counsel for the First Respondent and Mr. S.M.Mohan Gandhi, Learned Counsel for the Second to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.



2. This Court during the earlier hearing on 16.04.2021 has passed the following self-explanatory order:-

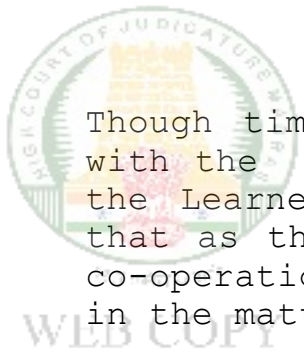
" The Petitioner and the Second to Fourth Respondents are the legal heirs of V.Ponnaiah Pillai who worked as a Lineman in the First Respondent, viz., Tamil Nadu Electricity Board and retired from service on 30.04.1988 and subsequently died on 27.05.2010. As certain payments were due by the First Respondent to the said V.Ponnaiah Pillai, the Petitioner made a claim for the same and had produced a registered Will dated 24.12.2009 executed by the said V.Ponnaiah Pillai in his favour to receive those amounts. The First Respondent by order in Lr.No.050348/697/PPO.1636R/ F14/F143/2011 dated 19.12.2011 declined to accept the said Will as a valid nomination appointing the Petitioner in the absence of 'No Objection Certificate' from the other legal heirs which is challenged in this Writ Petition.

2. It has been held by the Hon'ble Supreme Court of India in **Rameshwari Devi -vs- State of Bihar and others** [(2000) 2 SCC 431] as follows:-

"13. ... When there are two claimants to the pensionary benefits of a deceased employee and there is no nomination wherever required the State Government has to hold an inquiry as to the rightful claimant. Disbursement of pension cannot wait till a civil court pronounces upon the respective rights of the parties. That would certainly be a long-drawn affair. The doors of civil courts are always open to any party after and even before a decision is reached by the State Government as to who is entitled to pensionary benefits. Of course, inquiry conducted by the State Government cannot be a sham affair and it could also not be arbitrary."

Having regard to the aforesaid legal position, it is incumbent upon the employer to conduct enquiry as to the rival claims made by the legal representatives of a deceased employee and determine whom amongst them would be entitled to receive the dues. Learned Counsel for the First Respondent, on instructions, states that the Superintending Engineer, Sivagangai Electricity Distribution Circle, TANGEDCO, Sivagangai, who is the competent authority, would conduct such enquiry, which shall commence on 28.04.2021 at 11.00 a.m. at his office after due notice to the Petitioner and the Second to Fourth Respondents to attend the same and the outcome would be informed to this Court on the next hearing.

Post the matter on 02.06.2021."



Though time was extended on 14.06.2021 and 13.07.2021 to comply with the aforesaid order passed by this Court, it is informed by the Learned Standing Counsel appearing for the First Respondent that as the Second to Fourth Respondents are not extending their co-operation due to which it was not possible to proceed further in the matter.

3. In view of the aforesaid submissions made, it is made clear that the First Respondent shall proceed to complete the enquiry in the absence of the Second to Fourth Respondents failing to attend the same on the basis the materials available on record and take a decision in terms of the order dated 16.04.2021 passed in the matter and communicate its outcome to all parties concerned under written acknowledgment. It is needless to clarify here that such exercise carried out by the First Respondent shall not be in derogation of entitlement of any of the rival claimants to work out their rights for necessary relief before the proper forum, impleading all necessary parties and in that event, the ultimate outcome of such proceedings shall be binding upon all parties including the First Respondent, as employer, who shall thereupon act in accordance with the same.

In the result, the Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-

Assistant Registrar (WRITS)

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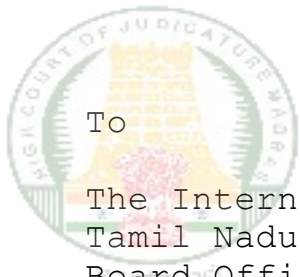
/ /2021

Sub Assistant Registrar (CS)

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Note: (i) Issue order copy by 15.09.2021.

(ii) In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

The Internal Audit Officer,
Tamil Nadu Electricity Board,
Board Office, Audit Branch,
N.P.K.R.R. Maaligai 1st Floor,
No.144, Anna Salai,
Chennai - 2.

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-23845[F] dated 26/07/2021)

+1 CC to M/s.J.ANANDKUMAR, Advocate (SR-23861[F] dated 26/07/2021)

**W.P. (MD) No. 7260 of 2013
26.07.2021**

NSN(CO)
SB(15.09.2021) 4P 4C