



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2021

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.11424 of 2014
and
W.M.P(MD)No.1 of 2014

P.Paramasivam

... Petitioner

Vs.

1.The District Manager/Supervisor,
TASMAC Limited,
Dindigul.

2.The Authorized Officer,
Employees' Provident Fund Organisation,
1-Lady Doak College Road,
Bhavishya Nidhi Bhavan,
Chockikulam,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the communication in MD/MDU/114/REJECTION/42998-A/374/14(6)/2014 dated 31.03.2014 on the file of the second respondent and quash the same and consequently, direct the second respondent to disburse the death benefits and other PF related amounts payable to the A/c.No.MD/MDU/0042988/00A/0000374 belonged to the petitioner's son P.Jeyendran.

For Petitioner : Mr.N.Mohan
For Respondents : Mr.H.Arumugam,
for R1.
: Mr.Murali Sankar,
for R2.

O R D E R

The petitioner's son P.Jeyendran joined the first respondent Corporation as salesman vide an appointment order, dated 29.11.2003. The deceased has executed a Nomination Form, nominating the petitioner and his wife. The petitioner's deceased son married one Shakthi Anushiya on 27.03.2005. After the marriage,



unfortunately the petitioner's son died on 28.07.2005. After the petitioner's son death, the daughter-in-law snapped her relationship through customary method on 17.10.2005. Thereafter, the said Sakthi Anushiya remarried one R.Arivalagan on 07.09.2007. Thereafter, the petitioner filed Succession O.P.No.1 of 2008 on the file of the District Munsif, Nilakkottai and obtain the order of Succession Certificate on 23.09.2008. The petitioner being the father of the deceased Jeyendran, applied for the death benefits and the Provident Fund benefits before the first and second respondents. The second respondent rejected the claim stating that the daughter-in-law alive and directed the petitioner to produce the Form 20 and Form-10 D once again in respect of the daughter-in-law namely, Sakthi Anushiya. Aggrieved over the order passed by the second respondent, the present Writ Petition is filed to quash the order and to direct the second respondent to disburse the death benefits and other benefits.

2.The first respondent has filed a counter stating that all the papers have been forwarded to the second respondent. The second respondent has filed a detailed counter stating that the Succession O.P has been filed only to claim the deposit amount of Rs.15,000/- (RUPEES FIFTEEN THOUSAND only) from the first respondent and it is not filed to claiming any pensionary benefits or the Provident Fund benefits and therefore the same is rejected. The second respondent has also stated that the petitioner and his wife has submitted Form 20(Employee's Provident Funds) and Form10D(Pension) and the same was returned stating that the application ought to be signed by the daughter-in-law also. The second respondent has also stated that the parents of the deceased member may be eligible for Provident Fund benefits if they are certified by the employer as dependent at the time of death and quantum of Provident Fund benefits will be decided only after deciding the number of members in the family according to the Employee's Provident Funds Scheme Provisions under Para 70(ii). The petitioner is not eligible for any pensionary benefits under the Employee's Pension Scheme, 1995 as the parents do not form part of 'family' under Para 2(vii) of the Employee's Pension Scheme, 1995 and submitted the rejection letter dated 31.03.2014 is in accordance with law.

3.Heard the learned counsel for the petitioner, learned counsel for the first respondent and learned counsel for the second respondent.

4.The learned counsel for the petitioner would submit that the petitioner is right in claiming Provident Fund, since, the deceased son has executed the Nomination Form and has mentioned his parents name only and the deceased has not included his wife as one of the nominees prior to his death.

5.However, the learned counsel for the second respondent <https://www.mca21.com/join/1327132> stated that the wife of the deceased also is entitled to



the Provident Fund, according to the Employee's Provident Funds Scheme Provisions.

6.On considering the rival arguments, this Court is of the view that the petitioner's son died in the year 2005 and his wife has remarried in the year 2007 and the Succession O.P was filed in the year 2008. After the lapse of 15 years, the wife may not claim the amount since, she is remarried and not in contact with the petitioner's family. Moreover, the nomination states that only the petitioner and his wife are entitled to. Therefore, this Court directs the second respondent to pay the Provident Fund amount in entirety to the petitioner and his wife.

7.So far as the pension is concerned, the respondent counsel vehemently stated that the pension cannot be disbursed to the parents of the deceased, since, as per the definition of the family, the parents are not included at all and there are humpty number of judgments stating that the parents are not entitled to.

8.The petitioner counsel equally submitted that the wife has snapped the relationship with the petitioner's family on 17.10.2005 by the customary Panchayat before the elders of that village and from that date onwards the said Sakthi Anushiya is not in contact with the family of the deceased at all. Moreover, the Nomination Form states only the petitioner and his wife as a nominee. Even in the Sucession Certificate, it is held that the petitioner and his wife are entitled to. After the lapse of 15 long years, the petitioner may not make any claim and it will be unnecessarily lying before the second respondent. He would further submitted that the Court below has rightly directed to pay the parents only.

9.On considering the rival submissions, this Court understands the apprehension of the second respondent that if the wife claims in future before the second respondent, the second respondent will be made liable to pay the amount. The second respondent is only a Trust and cannot be made liable for such claims, if paid. For such payment, if the authorities are made responsible their service would be affected.

10.The issue of including parents in the definition of 'family' was considered by this Court in W.A(MD)No.3409 of 2002 dated 05.01.2002 in The Regional Commissioner Vs. Mrs.Chellam @ Chellammal. It has been held as under:

"10.It is not in dispute that the deceased is a member of the scheme and eligible for sanction of family pension. Even though parents are not included in the definition 'family' of the scheme 1971, as the appellant accepted nomination of the mother of the deceased to receive the fiscal assistance after his death, she is entitled to receive the family



pension as the nominee. After realising the mistake for non inclusion of the parents in the definition of 'family' in 1971 scheme, they have included the parents in the definition of 'family' in 1995 scheme. As held by the learned single Judge of Gauhati High Court, this is a piece of welfare legislation and aims to achieve the object of giving the financial protection to the helpless parents of the deceased employee.

11. Therefore, we are of the considered view that the learned single Judge has rightly allowed the writ petition directing the appellant to pay the family pension to the first respondent and her husband as per the existing pension scheme with arrears from 29.07.1987 with interest at the rate of 6% per annum. We see no reasons to interfere with the said order. The order of the learned single Judge is confirmed."

As rightly held by the Hon'ble Division Bench of this Court EPF and PF is a beneficial legislation.

11. Therefore this Court directs the second respondent to pay the EPF and the pension along with arrears to the petitioner and his wife, being the parents of the deceased Jeyendran.

12. At this juncture the petitioner accepted if the wife makes any claim, the petitioner would pay the 1/3rd of the pension amount. Therefore this Court is directing the petitioner to pay the 1/3rd amount, if the ex-wife of the deceased makes any claim.

13. With these above directions, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

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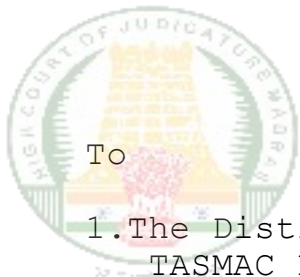
/ /2021

Sub Assistant Registrar(CS)

gbg/btr

Note: 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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The District Manager/Supervisor,
TASMAC Limited,
Dindigul.

2.The Authorized Officer,
Employees' Provident Fund Organisation,
1-Lady Doak College Road,
Bhavishya Nidhi Bhavan,
Chockikulam,
Madurai.

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-34694[F] dated 16/11/2021)

W.P (MD) No.11424 of 2014

and

W.M.P (MD) No.1 of 2014

15.11.2021

RS (26.11.2021) 5P 4C