



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:16.11.2021

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. (MD) .No.8892 of 2018

A.Sakunthala

... Petitioner

vs.

1.The Secretary to Government,
Agriculture Department,
Fort St. George,
Chennai -9.

2.The Director of Agriculture Marketing,
Chennai -40.

3.The Secretary,
Tirunelveli Market Committee,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the first respondent to sanction regular family pension of the petitioner's deceased husband Late T.Srinivasan, by condoning the non-admission of the petitioner husband into the Provident Fund Scheme, on the basis of the proposal sent by the respondents 2 and 3, dated 27.09.2000 and 03.04.2003 and pay the same with all arrears within the time fixed by this Court.

For Petitioner : Mr.H.Arumugam
For Respondents : Mr.A.K.Manikkam
Special Government Pleader

O R D E R

Heard Mr.H.Arumugam, learned counsel for the petitioner and Mr.A.K.Manikkam, learned Special Government Pleader for the respondents.

2. The relevant dates and events in this matter are as follows:

(i) the petitioner's husband one Srinivasan had been appointed as a Watchman in Tirunelveli Market Committee / R3 on 24.12.1971. His service was made permanent retrospectively.

(ii) While in service, G.O.(Ms.)No.1078, Agri. dated 03.04.2003 to be passed sanctioning pension, death cum



retirement gratuity and other benefits, subject to the concerned employee seeking admission in the Provident Fund Scheme itself.

(iii) Benefits under the Scheme were applicable in respect of those employees, who retired from service on or after 02.10.1970. However, the petitioner's husband passed away on 10.09.1977, before he could seek admittance into the Scheme. A period of one year from coming into effect of the Scheme ie., on 01.06.1977 was provided to enable the employees to seek admission to the Scheme.

3. The petitioner made an application on 28.10.1991 seeking the benefit of family pension that came to be rejected by order dated 13.12.1991. The reason adduced by R3 was that the employee has not sought admission into the Scheme and hence, the question of awarding family pension would not arise.

4. On 06.01.1994, R2 ie., the Director of Agriculture Marketing, considered the case of the petitioner and recommended that family pension be paid to her. Commendably he requests early orders to alieviate her unfortunate condition.

5. The Office of the Principal Accountant General (A & E) also recommends the sanction of family pension to the petitioner, vide order dated 16.01.1998, noticing instances of relaxation of the conditions in this Scheme made by the Government in the case of several employees.

6. Incidentally, a suggestion was made that the Government consider granting ex-gratia to all cases of employees who had retired or died, but had not been covered by a Family Pension Scheme, prior to 01.01.1986, subject to compliance of the conditions set out thereunder.

7. The opinion of R2 as well as the Principal Accountant General, thus converge on the aspect of recommending the case of the petitioner for grant of the family pension, despite the employee not having sought specific admittance into the Scheme.

8. R3, perhaps taking note of the recommendations of R2 and the Office of the Accountant General, follows suit thereafter, also recommending the case of the petitioner for grant of family pension in proceedings bearing Na.Ka.No.E1.6308/2000, dated 27.09.2000.

9. The petitioner has been corresponding with the first respondent, being the Secretary to Government, thereafter and consistently, reiterating her request. Responses from R1 are to the effect that her requests are under consideration, sans a specific acceptance or rejection of the same.



10. The petitioner thus approached this Court in W.P.(MD). No.5448 of 2014 seeking a Mandamus directing R1 to sanction family pension, by considering the recommendations of R2 and the Office of the Accountant General, dated 06.01.1994 and 16.01.1998. The writ petition came to be disposed on 28.03.2014, a learned single Judge of this Court directing R1 to consider the representation and pass orders within a time frame fixed by this Court.

11. On account of the non response by R1, a Contempt Petition appears to have been filed and in order to ensure compliance, proceedings dated 24.03.2015 came to be passed by R1 computing arrears of ex-gratia and paying over the same to the petitioner, proximate to the hearing of the Contempt Petition itself. Ex-gratia has admittedly been received by the petitioner till the month of December 2020.

12. Importantly, the request for family pension has not been considered by R1 despite the request of the petitioner having all along been for family pension only and not ex-gratia. Moreover, Mandamus was issued only in relation to the claim for family pension. The cause for contempt thus, still survives.

13. The respondents do not deny the factum of employment of the petitioner's husband and the only defence put forth to reject the request for family pension on merits is that there was no application for admittance of the employee into the Pension Scheme.

14. The Mandamus, as sought for, is issued. There is a direction to R1 to compute the pension to which the petitioner is entitled, bearing in mind the period of services put in by her husband and to pay over the arrears, within a period of four weeks from today. Timely payments shall be effected thereafter. The payment of ex-gratia shall cease as on 31.12.2020.

15. This Writ Petition is allowed. No costs.

Sd/-

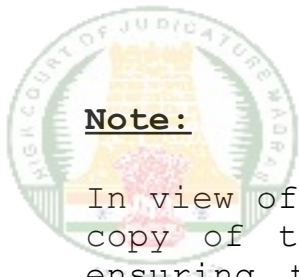
Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

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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.

To

- 1.The Secretary to Government,
Agriculture Department,
Fort St. George,
Chennai -9.
- 2.The Director of Agriculture Marketing,
Chennai -40.
- 3.The Secretary,
Tirunelveli Market Committee,
Tirunelveli District.

+1 CC to M/s.SPL GP (SR-34776[F] dated 17/11/2021)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-34847[F] dated 17/11/2021)

W.P. (MD)No.8892 of 2018
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