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W.P.No.2186 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.2186 of 2022

and

W.M.P.No.2354 of 2022

T.Gopi

... Petitioner

Vs.

- 1.The Commissioner
Greater Chennai Corporation,
Rippon Building, Chennai.
- 2.The District Revenue Officer/
None-8, Greater Chennai Corporation
36 B-Pulla Avenue,
Shenoy Nagar, Chennai-30.
- 3.The Assistant Commissioner
Public Department (Pension Section)
Greater Corporation of Chennai.

4.Kondamma

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, call for the impugned proceedings in Ma.A.8.Na.Ka.No.C4/8080/2019 dated 28.04.2021 of the 2nd respondent quash the same consequently direct the respondents 1 to 3 to



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disburse the retirement benefits and compassionate appointment on the basis of the legal heirs certificate issued by the Tashildar, Pallavaram without insisting further declaration order from the court.

For Petitioner : Mr.S.N.Subramani

For R1 to R3 : Mr.Manojkumar
Standing Counsel

For R4 : Mr.P.Mathu Krishnan

ORDER

This Writ Petition has been filed seeking to issue a Writ of Certiorari, calling for the impugned proceedings in Ma.A.8.Na.Ka.No.C4/8080/2019 dated 28.04.2021 of the 2nd respondent, quash the same and consequently, to direct the respondents 1 to 3 to disburse the retirement benefits and compassionate appointment on the basis of the legal heirs certificate issued by the Tashildar, Pallavaram, without insisting further declaration order from the court.

2. According to the petitioner, the petitioner's father was working as a Driver in the 1st to 3rd respondents/Corporation and he married the 4th respondent herein on 10.06.1981. Due to the above wedlock, they got two



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male children namely, the petitioner herein and T.Rajesh. Subsequently, his father added the name of the 4th respondent viz., Kondamma in his service book. Thereafter, due to the misunderstanding, the 4th respondent executed a marriage cancellation deed in favour of his father on 25.12.1992 and left the matrimonial home. Therefore, the 4th respondent herein married another person namely Govindasamy as second marriage and they got one male child namely Murali and living separately. Thereafter, the petitioner's father namely G.Thirupal married one Malliga.

3. According to the petitioner, his family card for the year 2005-2009 reveals the name of his father viz., Thirupal, mother viz., Malliga and his brother viz., T.Rajesh. The Tamil Nadu New Health Insurance Scheme, 2016 which also reveals that the said Malliga is the wife of his father. All of sudden, his father was died on 14.05.2019 leaving behind the petitioner, his mother and brother as legal heir.

4. According to the petitioner, the Tashildar, Pallavaram after conducting enquiry, issued legal heirs certificate of his father late G.Thirupal on 05.10.2019. The 3rd respondent has disbursed a sum of Rs.3,00,000/- to



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the petitioner's bank account by his Proceedings in Po.Thu.Na.Ka.No.P13/000059/2020 after getting no objection letter from Kondamma and the petitioner's mother and his brother. The petitioner's mother and his brother have also given no objection letter to him for getting compassionate appointment from the 1st to 3rd respondents.

5. Therefore, the petitioner has made a representation dated 16.07.2019 to the official respondents seeking compassionate appointment. By the proceedings dated 05.08.2019, the 2nd respondent seeking certain document to proceed the application of the petitioner. Thereafter, the petitioner has produced all the relevant documents before the 1st to 3rd respondents including No Objection Certificate given by the 4th respondent for compassionate appointment. The Tahsildar, Pallavaram issued legal heir certificate on 05.10.2019, which clearly reveals that the petitioner, his brother and Malliga are only the legal heirs of late Thirupal. But the 2nd respondent by his impugned proceedings in Ma.A.8.Na.Ka.No.C4/8080/2019, dated 28.04.2021 has rejected the claim of the petitioner and refused to disburse his father's retirement benefits for the reason that the deceased Thirupal without getting divorce from the 1st wife through legal proceedings in the court, got



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marriage with the 2nd wife namely Malliga. Therefore, the said impugned order is illegal and it is liable to be rejected and to direct the 1st to 3rd respondents to disburse the retirement benefits as well as to give appointment on compassionate ground.

6. The learned Standing Counsel appearing for the 1st to 3rd respondents/Corporation, on instructions, submitted that the other legal heirs of the 1st wife of the petitioner's father has to give No Objection to consider the petitioner's application for compassionate appointment and for payment of terminal benefits to them and if No Objection has not been produced by the petitioner, the request of the petitioner has not been considered by the 1st to 3rd respondents/Corporation. He further submitted that if the petitioner has produced no objection obtained from the legal heirs of the deceased Thirupal, the said application of the petitioner would be considered for the aforesaid relief as prayed in the instant writ petition and the said statement is recorded.

7. The learned counsel appearing for the petitioner informed before this Court that the legal heirs of the 1st wife of the petitioner's father has given no objection for the aforesaid relief granted to the petitioner, if



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necessary, the 1st to 3rd respondents/Corporation may issue notice to the said legal heirs of the petitioner's father and thereafter, to take appropriate decision for payment of terminal benefits.

8. The learned counsel appearing for the 4th respondent also undertakes that the 4th respondent has to be given no objection for giving relief to the petitioner and the said statement is also recorded.

9. In view of the above said undertakings made by the parties, this Court is inclined to pass orders as follows:-

(i) The impugned Proceedings in Ma.A.8.Na.Ka.No.C4/8080/2019, dated 28.04.2021 passed by the 2nd respondent, is quashed.

(ii) The 2nd respondent/Corporation are directed to serve notice to the petitioner and other legal heirs of the deceased employee namely Thirupal, as early as possible, within a period of eight weeks from the date of receipt of a copy of this order. After providing an opportunity to the petitioner as well as the other legal heirs, the 2nd respondent/Corporation shall pass appropriate



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orders, as early as possible, within a period of twelve weeks thereafter.

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10. With the above directions, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
dm

To

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D.KRISHNAKUMAR. J

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