



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.03.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P.No. 24955 of 2017

R.Vasantha

... Petitioner

-vs-

The Joint Commissioner/Executive Officer,
Arulmigu Subramania Swamy Thirukovil,
Tiruttani,
Thiruvallur District-631 209.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus directing the Respondent to disburse the terminal benefits due to her, on behalf of her deceased husband M.Rathinam as per the representation dated 02.06.2017 with interest at the rate of 18% per annum from the date of her entitlement.

For Petitioner : Ms.Krithika for
R.Gopinath

For Respondent : Mr. P.Gopalan

O R D E R

Heard Mr. R.Gopinath, Learned Counsel for the Petitioner and Mr. P.Gopalan, Learned Counsel for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner claims to be the wife of one M.Rathinam who had retired from the service of the Respondent on 30.09.2015 and subsequently died on 25.12.2015. Since the representation dated 02.06.2017 made by the Petitioner for disbursing the terminal benefits of the said M.Rathinam did not evoke any response, this Writ Petition has been filed to make payment of the same with interest from the date of retirement till payment.

3. The Respondent has filed Counter-Affidavit dated 25.02.2018 stating that the Petitioner made an application dated 25.05.2017 claiming the terminal benefits of the said M.Rathinam and had annexed the copy of the Legal Heirs Certificate and No Objection Certificate from one Chinnaponnu from which it was revealed that the said Chinnaponnu was the second wife of the said M.Rathinam and in such circumstances, the Petitioner would have to approach the Civil Court seeking the terminal benefits of the deceased employee.



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4. In this context, reference must be made to the decision of the Hon'ble Supreme Court of India in the case of Rameshwari Devi -vs- State of Bihar [(2000) 2 SCC 431] wherein the Hon'ble Supreme Court of India has explicated the legal position 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. The decision has to be taken in a bona fide, reasonable and rational manner."

Having regard to the aforesaid legal position, it is incumbent upon the Respondent to conduct enquiry after due notice to the Petitioner and the said Chinnaponnu and other legal heirs, if any of the said M.Rathinam, and depending upon its outcome, the terminal benefits would have to be paid to the eligible persons after communicating such decision taken to all parties concerned under written acknowledgement. It is needless to clarify here that such exercise required to be carried out by the Respondent shall not be in derogation of the entitlement of any of the contesting parties to seek declaration of their matrimonial status and legitimacy of children in a suit instituted under Section 7 of the Family Court Act, 1984, impleading all necessary parties and in that event, the ultimate outcome of such proceeding shall be binding upon all parties including the 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(CS V)

//True Copy// Sub Assistant Registrar

gd

To

The Joint Commissioner/Executive Officer,
Arulmigu Sunramania Swamy Thirukovil, Tiruttani,
Thiruvallur District-631 209.

+1 cc to Mr.P.Gopalan, Advocate Sr.NO.13679

+1 cc to Mr.R.Gopinath, Advocate Sr.NO.13672

W.P.No. 24955 of 2017

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