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WP No.33930 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-11-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.33930 of 2019

1.A.Vennila

2.A.Prema

3.A.Manikandan

4.A.Sowmiya

..

Petitioners

VS.

1.The Commissioner,
Greater Chennai Corporation,
Ribbon Building,
Chennai-600 003.

2.The Zonal Officer-IV,
Greater Chennai Corporation,
No.266, T.H.Road,
Tondiarpet,
Chennai-600 021.

..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India,
praying for the issuance of a Writ of Certiorarified Mandamus, calling for



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the records of the second respondent in Ma.A4.Na.Ka.No.A4/1439/2015 dated 17.06.2019 and quash the same and consequently direct the second respondent to release the monetary benefits of late Mr.N.Anandhan and grant compassionate employment to any of the petitioners in accordance with law.

For Petitioner : Mr.T.Gowthaman

For Respondents : Mr.G.T.Subramanian,
Standing Counsel for Greater Chennai Corporation.

ORDER

The order of rejection passed by the second respondent dated 17.06.2019 rejecting the claim of the writ petitioners for settlement of terminal and pensionary benefits due to the deceased employee, is under challenge in the present petition.

2. The first petitioner states that she is the second wife of late Mr.N.Anandhan, who was an employee employed in Greater Chennai Corporation. The husband of the first petitioner died on 19.08.2009. The petitioners submitted the Legalheirship Certificate and Death Certificate and submitted an application to settle all the terminal and pensionary benefits



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due to the deceased employee and also to provide an appointment on compassionate grounds.

3. The respondents rejected the said application on the ground that the first petitioner is the second wife of the deceased employee and therefore, they have to get the Succession Certificate from the Competent Court of Law.

4. The learned counsel for the petitioners states that the family of the petitioners is not possessing an immovable property and therefore, the Succession Certificate Petition is not even numbered before the High Court. Thus the petitioners are unable to get the Succession Certificate.

5. The learned counsel for the petitioners made a submission that the petitioners have submitted the Death Certificate of the first wife of the deceased employee.



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6. However, the learned Standing Counsel appearing on behalf of the respondents states that the age difference between the deceased employee and the alleged first wife is about 20 years and therefore, the Death Certificate of the first wife itself is disputed by the Authorities.

7. Perusal of the Legalheirship Certificate reveals that there is no legalheirs details about the first wife of the deceased employee and therefore, based on the Legalherirship Certificate produced by the petitioners, the terminal and pensionary benefits due to the deceased employee cannot be settled.

8. The learned Standing Counsel appearing on behalf of the respondents brought to the notice of this Court that there is a rival claim made by one Smt.Devi and therefore the respondents are not in a position to settle the terminal and pensionary benefits due to the deceased employee in the absence of an order from the Competent Court of Law.



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9. The Legalheirship Certificate cannot be a conclusive proof regarding the legalheirs of the deceased employee. Beyond the Legalheirship Certificate if any counter claim is made, then an adjudication becomes inevitable. Therefore, the parties are at liberty to approach the Competent Civil Court of Law for the purpose of adjudicating the disputed issues and only if judgment and decree is submitted before the Authorities, then alone they will be in a position to settle the terminal and pensionary benefits due to the deceased employee.

10. This being the factum, the petitioners are at liberty to approach the Competent Civil Court of Law for adjudication of disputed issues and only after reaching the finality, they are at liberty to approach the respondents for the purpose of settlement of terminal and pensionary benefits due to the deceased employee. However, it is made clear that compassionate appointment cannot be granted after lapse of several years, since the compassionate appointment is a concession and not a right

11. With the abovesaid liberty, the writ petition stands



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dismissed. However, there shall be no order as to costs.

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Index : Yes/No.

Internet : Yes/No.

Speaking Order/Non-Speaking Order.

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S.M.SUBRAMANIAM, J.



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