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W.P.No.34804 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.34804 of 2018

1.M.A.Ganapathi
2.M.A.Hemavathi

... Petitioners

Vs

The Assistant Engineer,
Corporation of Chennai,
Zone 4, Ward 42,
Rathinasabapathi Street,
Tondiarpet, Chennai 600 081.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondent to consider the representation of the petitioners dated 19.09.2018 seeking death cum retirement benefits.

For Petitioners : Mr.R.Ramachandran

For Respondent : Mr.G.T.Subramanian

ORDER

The prayer sought for herein is for a writ of mandamus directing the respondent to consider the representation of the petitioners dated 19.09.2018 seeking death cum retirement benefits.



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2. The petitioner's aunt one M.Amirdham was working as Sweeper at the respondent Corporation and while she was in service, she passed away on 25.06.2018. During her lifetime even though she married one Sampath, soon after that said Sampath seems to have deserted Amirdham i.e. aunt of the petitioners and thereafter, his whereabouts is also not known, therefore after the statutory period, it can be presumed that the said Sampath can be declared to be a dead person by way of presumption of death. Therefore, since there has been no other legal heirs for the said Amirdham because they did not have any issue out of the wedlock between Amirdham and Sampath, the petitioners who are the nephew and niece i.e. Amirdham brother's son and daughter who have been nominated as nominee in the service register of the said Amirdham and therefore, in that capacity the petitioners made a representation to the respondent only on 19.09.2018 to seek for the death cum retirement benefits payable to the said M.Amirdham. The said representation since has not been considered, they have approached this Court by filing the present writ petition.

3. Heard Mr.R.Ramachandran, learned counsel appearing for the petitioner who having reiterated the aforestated would seek indulgence of this Court to issue a direction to that effect by way of mandamus.



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4. Heard Mr.G.J.Subramanian, learned Standing Counsel for the respondent Corporation who would submit that, though the petitioners claimed to be the nephew and niece of the deceased employee and also nominees of the deceased employee, based on which, they cannot seek for the legal heirship and therefore death cum retirement benefits payable to the deceased employee cannot be paid to the petitioners, unless and until, they get a legal heir certificate from the authority to be issued by the competent authority and once such a legal certificate obtained by them is produced, accordingly on verification of the same the death cum retirement benefits payable to the deceased employee to the legal heirs of her would be paid to the petitioners accordingly.

5. Having considered the said submissions made by both sides, this Court is inclined to dispose of this writ petition with the following orders:

(i) That there shall be a direction to the petitioners to produce the legal heir certificate obtained from the concerned authority declaring that the petitioners are the legal heirs of the deceased employee viz., M.Amirdham and on production of such legal heir certificate, the respondent Corporation shall consider the same and accordingly based on the legal heir



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certificate as well as the nominee entry made in the service register of the deceased employee of the respondent Corporation, they shall disburse the death cum retirement benefits to the petitioners.

(ii) The needful as indicated above shall be undertaken by the respondent Corporation on receipt of such legal heir certificate and request specifically in this regard from the petitioners within a period of eight weeks thereafter.

6. With this direction, this Writ Petition is disposed of. No costs.

24.08.2022

Index : Yes / No

Speaking Order : Yes / No

Sgl



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To

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R. SURESH KUMAR, J.

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