



W.P.(MD) No.2004 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.2004 of 2020

Selvi

... Petitioner

-VS-

- 1.The Principal Secretary
Municipal Administration and
Water supply Department
St. George, Chennai 9.
- 2.The Commissioner,
Municipal Administration
Chennai.
- 3.The Director,
Local Fund Audit Department
Combined Finance Department Office,
Nandhanam
Chennai.
- 4.The Commissioner
Theni Allinagaram Municipality
Theni.

... Respondents



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Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in his proceedings Na.Ka.No.21445/2018/B2 dated 21.11.2019 and quash the same as illegal and consequentially direct the respondents to disburse the family pension and other benefits within a period that may be stipulated by this Court.

For Petitioner : Mr.V.P.Rajan

For Respondents : Mr.C.Satheesh for R1 to R3
Government Advocate
Mr.K.Hema Karthikeyan for R4

ORDER

Challenging the impugned order of the 2nd respondent dated 21.11.2019 and for a consequential direction to the respondents to disburse the family pension and other benefits, this writ petition has been filed.

2.It is the case of the petitioner that the petitioner herein is the second wife of the petitioner and her husband employed as Watchman on daily wage basis in the fourth respondent Municipality in the year 1987 and accordingly, as per G.O.Ms.No.125 (Municipal Administration and Water



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supply Department) dated 27.05.1999, the daily wage employees shall be appointed on consolidated pay for a period of one year and thereafter, as and when vacancy arises, they shall be brought under the time scale of pay. Accordingly, the petitioner's husband was appointed on consolidated pay on 15.12.2000. However, his services were not regularised and he died on 29.05.2003. While so, a dispute arose between the legal heirs of the deceased employee with regard to pension and other benefits and litigations were pending before the civil Court and the civil Court passed an order in favour of the petitioner. Thereafter, Writ Petitions filed by one of the legal heir and the petitioner were disposed of by this Court on 23.03.2018 holding that the petitioner herein is entitled to family pension as per the Tamil Nadu Pension Rules, 1978 and the other legal heir is entitled for half of the benefits. However, the 3rd respondent sought clarification from the 4th respondent on 06.05.2019 for processing the pension proposal. The 4th respondent, in turn, vide reply dated 14.06.2019, while returning the pension proposal citing the pendency of Special Leave Petition, stated that since the petitioner's husband was appointed on consolidated pay in terms of the above said G.O. and his services were not regularised, the petitioner's



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case would be considered based on the outcome of the writ petition. The second respondent, accepting the view of the 3rd respondent, has passed the impugned order, which is challenged before this Court by way of this writ petition.

3. Heard the learned counsel for the petitioner, the learned Government Advocate for the respondents 1 to 3 and the learned counsel for the 4th respondent.

4. The learned Government Advocate would submit that since the SLP is pending before the Hon'ble Supreme Court, the respondents rightly rejected the proposal of the petitioner and as per the outcome of the SLP, the case of the petitioner would be considered.

5. The facts in the present case are not in dispute. The petitioner is the second wife of the deceased employee. It is not in dispute that deceased husband was appointed in the year 1987 on daily wage basis and subsequently, as per G.O.Ms.No.125 (Municipal Administration and Water



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supply Department) dated 27.05.1999, the daily wage employees shall be appointed on consolidated pay for a period of one year and thereafter, as and when vacancy arises, they shall be brought under time scale of pay. Accordingly, the petitioner's husband was appointed on consolidated pay on 15.12.2000. However, his services were not regularised and he died on 29.05.2003. When a claim has been made by the petitioner, the respondents have simply rejected her claim stating that the issue is pending before the Hon'ble Supreme Court. The petitioner claimed that she is entitled for monetary benefits. It appears that petitioner's husband was not regularised till 2003. As per the decision in **State of Karnataka v. K.Uma Devi (2006 (4) SCC 1)**, the employees, who were working on daily wage basis/consolidated pay, shall be regularised on completion of ten years of service. However, the impugned order is bereft of any details with regard to the pendency of the issue before the Apex Court. Hence, the impugned order is liable to be set aside and the matter is remanded back to the respondents. The respondents are directed to decide the entitlement of the petitioner's for monetary benefits and pass orders on merits and in accordance with law.



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6. The writ petition is disposed of accordingly. No costs.

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Index : Yes
Internet : Yes/No

RR

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M.DHANDAPANI, J.

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