



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.06.2022**

CORAM:

THE HONOURABLE **MR. JUSTICE M. S. RAMESH**

W.P. (MD) No. 11468 of 2019

and W.M.P. (MD) Nos. 8731 & 8732 of 2019

WEB COPY

M.Madasamy

... Petitioner

/vs./

1.The State of Tamil Nadu,
Rep. by its Director,
Directorate of Medical Education,
Kilpauk, Chennai - 10.

2.The Dean,
Government Medical College Hospital,
Tuticorin.

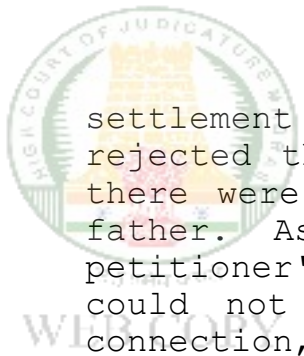
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.02857/NIP15/2017 dated 16.06.2017 passed by the respondent No.2 and quash the same as illegal and consequently direct the respondents to disburse the all service, pension benefits and appoint the petitioner on compassionate ground with consequential benefits within the time stipulated by this Court.

For Petitioner : MG.Thalaimutharasu
For Respondents : Mr.S.Shaji Bino,
Special Government Pleader.

ORDER

The petitioner's father is claimed to have left the house on 02.02.1999 stating that he received his salary and would come back. However, he is claimed to have gone missing from 03.02.1999 onwards, in connection with which, the petitioner's mother had given a complaint on 19.03.1999, which was registered in Crime No.238 of 1999, before the Thenbagam Police Station, Tuticorin under "Man Missing" case. In the final report dated 17.12.1999, the complaint came to be closed as non-traceable. Since more than seven years had lapsed from the date on which the petitioner's father went missing, his mother had preferred a suit in O.S.No.20 of 2011 before the District Munsif Court, Vilathikulam on 05.09.2011, to declare that her husband had died (civil death). The suit came to be settled before the Lok Adalat on 11.04.2015, whereby the terms of the settlement referred the date of death of the petitioner's father as 02.02.1999. The date of the death came to be incorporated in the death certificate as 02.02.1999 also. When a claim was made for

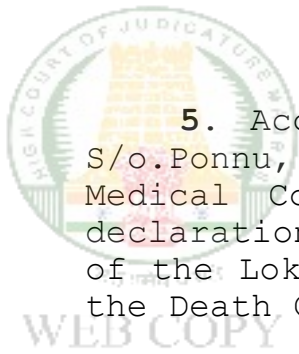


settlement of DCRG benefits of the employee, the same came to be rejected through the impugned order dated 16.06.2017 stating that there were discrepancies in the date of death of the petitioner's father. As per the impugned order, the respondents claimed that the petitioner's father had drawn salary on 03.02.1999 and therefore, he could not have been declared dead as on 02.02.1999. In this connection, the respondents had directed the legal heirs to get a clarification from the criminal Court.

2. In the counter affidavit filed by the respondent's herein the averments made in the impugned order have been reiterated. It is further stated therein that if the clarification as to the discrepancy in the date of death is obtained, the second respondent would immediately disburse the service benefits to the legal heirs.

3. The entire case now revolves around the date that came to be incorporated in the award of the Lok Adalat dated 11.04.2015. In the plaint, filed before the civil Court in O.S.No.20 of 2011, the petitioner's mother had specifically averred that her husband had gone missing from 02.02.1999 onwards. However, in the police complaint given by her, she had stated that her husband had left the house on 02.02.1999 onwards. Apparently, the award of Lok Adalat ought to have incorporated the date of death as 03.02.1999. However, since it was a consented award passed by the Lok Adalat, the date seems to have been recorded mistakenly as 02.02.1999. Consequently, the Death Certificate issued by the department of Municipal Administration Water Supply dated 06.10.2016 has also incorporated the date of death as 02.02.1999, in terms of the settlement arrived before the Lok Adalat. The respondents now claimed that the petitioner's father had received the salary on 03.02.1999 and therefore, they expressed their inability to disburse the service benefits in view of the discrepancy.

4. I do not find any infirmity in the action of the respondents by asking the petitioner to get a clarification from the Courts of law as to the discrepancy in the date of death. However, the fact remains that the petitioner's father had been missing from 1999 onwards and his family members had been deprived of the monetary benefits for more than 20 years. At this stage, if the petitioner is directed to get a clarification from the Courts of law, it would probably consume a few years, thereby causing serious prejudice to the family members. The respondents also do not seem to have any objection in disbursing the monetary benefits, but for the small discrepancy in the date of death, I am of the view that in these extraordinary circumstances of the case, the powers under Article 226 of the Constitution of India could be invoked and thereby, the date of death declared as 02.02.1999 in the Award of the Lok Adalat dated 11.04.2015 and Death Certificate dated 06.10.2016 could be rectified to read as "03.02.1999".



5. Accordingly, it is hereby declared that Meenakshisundaram, S/o.Ponnu, who was employed as a Washer Man in the Government Medical College Hospital, Tuticorin, died on 03.02.1999. This declaration shall supersede the date of death mentioned in the Award of the Lok Adalat dated 11.04.2015 in O.S.No.20 of 2011 as well as the Death Certificate dated 06.10.2016.

6. In the light of the declaration, there shall be a direction to the respondents to forthwith disburse the DCRG benefits of late Meenakshisundaram to his legal heirs, on the basis of a representation made by them. The respondents shall ensure that all the monetary benefits are ordered to be disbursed, atleast within a period of twelve (12) weeks from the date of receipt of such a representation from the legal heirs of late Government employee.

7. Though the petitioner herein has sought for the relief of appointment on compassionate ground, the same could be considered only on the basis of a proper application to be made with the concerned respondents and therefore, the prayer for appointment on compassionate ground is not being considered for the present

8. This Writ Petition stands ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(T & P)

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/07/2022

Sub Assistant Registrar(CS)

vsm

To

1.The Director,State of Tamil Nadu,
Directorate of Medical Education,
Kilpauk, Chennai - 10.

2.The Dean,
Government Medical College Hospital, Tuticorin.

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-27299[F] dated 22/06/2022)

+1 CC to M/s.SPL.GP (SR-27698[F] dated 23/06/2022)

Order made in
W.P.(MD) No.11468 of 2019
and W.M.P.(MD)Nos.8731 & 8732 of 2019
Dated:21.06.2022

nsn(CO)

TR(01.07.2022) 3P 5C

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