



WP(MD)No.16879 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 12.08.2022

DELIVERED ON : 01.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD)No.16879 of 2022

M.Muthupandi

... Petitioner

/vs./

1.Office of the Commissioner of Treasuries
and Accounts,
CPS Cell, Government Date Centre,
Guindy, Chennai – 600 025.

2.Government Rajaji Hospital,
Panagal Road, Madurai – 625 020.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to disburse the final amount of Rs.4,12,034/- (Rupees Four Lakh Twelve Thousand and Thirty-four only) that is accrued under the CPS (Contributory Pension Scheme) of the petitioner's late daughter M.Karthiga to her minor child K.Lakshanasri in the joint savings bank account, bearing No.6870630415 maintained with the Indian Bank, Tallakulam Branch, Madurai without insisting on succession certificate.



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For Petitioner : Ms.Shabnam Banu

For Respondents : Mr.R.Ragavendran,
Additional Government Pleader.

ORDER

The grievance of the petitioner in the present writ petition is the inaction on the part of the respondents herein in disbursing the balance of the Death-cum-Retirement Gratuity (DCRG) benefits of late M.Karthiga, to her minor daughter K.Lakshanasri. The petitioner herein is the maternal grand father of minor K.Lakshanasri and the father of late Karthiga, who had expired while serving as a Female Nursing Assistant, under the second respondent herein. The only reason assigned by the second respondent for withholding the balance of the DCRG is that, the petitioner has not produced a succession certificate from a Court of law for establishing the guardianship of his minor grand daughter, for the purpose of disbursement of the DCRG benefits.

2. Rule 45 of “The Tamil Nadu Pension Rules, 1978”,
(hereinafter referred to as “the Rules”) enables the Government servant,



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who has completed five years of qualified service, to receive gratuity and on his/her retirement, would be eligible for DCRG benefits. Rule 72 of the Rules, provides for sanction of family pension and DCRG, when a Government servant dies while in service. Under Rule 72(4)(b), when the deceased Government is survived only by a child, the guardian of such employee, may submit a claim in Form 14 to the Audit Officer. Under Rule 72(6)(a), the Head of the office, where the deceased Government servant was employed, is required to furnish particulars, within a month of date of death of the Government servant, to the Audit Officer, with regard to the gratuity benefits, including the details of the family of the deceased Government servant, for the purpose of the claim. When such details, as required under sub-rule 6(a) of Rule 72, are not furnished, sub-rule (b) provides that the Audit Officer shall assume that the full death-cum-retirement gratuity and non-contributory family pension has been sanctioned by the Head of the office. Apart from the aforesaid provision, there are no other Rules or Regulations governing the respondents, that places an embargo to withhold the DCRG benefits of a late employee, in favour of a minor legal heir.



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3. When the Tamil Nadu Pension Rules does not mandate the Head of office of the late Government employee to seek for a Succession Certificate from the guardian of such employee, more particularly, when Rule 72(6)(b) provides for a deemed sanction of the gratuity benefits when the Head of office fails to furnish the particulars of the deceased employee, within one month from the death, there is absolutely no justification on the part of the second respondent to seek for a succession certificate from the petitioner herein. In view of this deemed sanction, the second respondent cannot now withhold the DCRG any further or seek for other supporting documents in the absence of any Rules in this regard. This apart, no Government Order or other Regulations mandates for production of a Succession Certificate for the purpose of disbursing the DCRG benefits.

4. Incidentally, most of the DCRG benefits have already been disbursed to the savings bank account of the minor daughter of the late employee and the respondents are now withholding only the amount accrued under the Contributory Pension Scheme. If that be so, this Court is unable to comprehend as to how the second respondent herein was in a



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position to disburse a portion of the gratuity to the minor daughter, without insisting for a Succession certificate and withhold the remaining amount on the ground that a Succession certificate is required. On this ground of selective partisanship, the act of withholding the portion of the gratuity amount is illegal.

5. According to the learned counsel for the petitioner, a sum of Rs.4,12,034/- (Rupees Four Lakh Twelve Thousand and Thirty-four only) is the balance of the total accrued amount due towards the Contributory Pension Scheme, that requires to be disbursed by the respondents herein.

6. In the light of the above observations and findings, a Writ of Mandamus is hereby issued, directing the respondents herein to forthwith release the amount of Rs.4,12,034/- (Rupees Four Lakhs Twelve Thousand and Thirty-four only), which is due under the Contributory Pension Scheme of the late employee M.Karthiga, in favour of her minor daughter K.Lakshanasri, to the joint savings bank account, bearing S.B.A/C.No.6870630415, maintained with the Indian Bank, Tallakulam Branch, Madurai, without insisting for production of a succession



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certificate. Such orders shall be passed, atleast within a period of two (2) weeks from the date of receipt of a copy of this order.

7. This writ petition stands allowed. No costs.

01.09.2022

Index : Yes
Internet : Yes
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Note: Issue order copy on 05.09.2022



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M.S.RAMESH, J.

vsm

Order made in
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Dated:
01.09.2022