



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.21824 of 2022 and
W.M.P.(MD)Nos.15992 & 15994 of 2022

V.Sakthi

... Petitioner

Vs.

1. The Chief Educational Officer,
O/o.The Chief Educational Officer,
Pudukkottai District.

2. The Block Development Officer,
O/o.The Block Development Officer,
Gandarvakottai,
Pudukkottai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent in Na.Ka.No.3763/E2/2021 dated 01.08.2022, quash the same and consequently direct the respondents herein to forthwith disburse to the petitioner the death - cum - terminal benefits, all other benefits accrued to the service of petitioner's father Late Venkatachalam, employed as Block Development Officer, including pension, revised and arrears of pension together with interest at 12% from the date of death on 30.06.2021 till the date of payment.



For Petitioner : Mr.S.Srinivasa Raghavan

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

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner's father Thiru.Venkatachalam was working as Block Development Officer. He passed away on 30.06.2021. The petitioner applied to the department for disbursement of the terminal benefits. The petitioner's request was rejected by the first respondent vide Order dated 01.08.2022. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.



WEB COPY

4. The respondents have filed counter affidavit and the learned Special Government Pleader took me through its contents. He pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. There is no dispute that the writ petitioner was born to Thiru.Venkatachalam. The stand of the department is that the marriage between the petitioner's father Venkatachalam and her mother Pandiselvi which took place on 16.09.1999 was dissolved on 14.08.2008 in H.M.O.P.No.5 of 2008 on the file of the Sub Court, Devakottai. It relies on the compromise decree whereby the marriage between the petitioner's parents was dissolved. The petitioner's mother had given up all her claims of maintenance and alimony against her husband. In the same breath, she had also undertaken that the child who was born on 05.06.2001 would also not have any claim. Citing the aforesaid compromise decree, the first respondent has now taken a stand in the



impugned order that the petitioner cannot make any claim on late father's terminal benefits.

7. I cannot endorse the stand of the first respondent. It is not in dispute that when the marriage between the petitioner's parents was dissolved on the strength of compromise, the petitioner who was minor aged about eight years. The rights of the minor cannot be given up by the guardian or parent. The parent or guardian can enter into contract or arrangement or even give an undertaking which will not affect the minor. They do not have any right in law to give up the rights of the minor. Nothing detrimental to the minor's interests can be undertaken by them.

8. The writ petitioner is admittedly class I legal heir of the deceased Venkatachalam. Venkatachalam's mother Logambal appears to have predeceased. As on date, the petitioner is the sole surviving legal heir. Her right of succession cannot be foreclosed or defeated by the undertaking given by her mother thirteen years ago, when the petitioner was minor.



9. Looked at from any angle, the stand of the first respondent cannot be appreciated. The impugned order is set aside. The respondents are directed to settle and disburse the terminal benefits due and payable on account of the demise of Venkatachalam to the daughter V.Sakthi at the earliest and without any delay. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

15.11.2022

Index : Yes / No

Internet : Yes/ No

PMU

To:

1. The Chief Educational Officer,
O/o.The Chief Educational Officer,
Pudukkottai District.
2. The Block Development Officer,
O/o.The Block Development Officer,
Gandarvakottai,
Pudukkottai District.



WEB COPY



6

W.P.(MD)NO.21824 OF 2022

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.21824 of 2022

15.11.2022