



W.P.(MD)No.21352 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.21352 of 2015,
M.P.(MD)Nos.1 and 2 of 2015
and
W.M.P.(MD)No.6223 of 2016

P.Papathiyammal

... Petitioner

vs.

1.The Assistant Commissioner (Accounts),
Madurai Corporation, Madurai.

2.S.Muthumari

... 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 B11/28642/2014, dated 27.10.2015, on the file of the respondent No.1 and to quash the same as illegal and consequently, to direct the respondent No.1 to provide pension and other all service benefits of the petitioner's son Maharajan including the sum paid to the respondent No.2 to the petitioner within the time stipulated by this Court.



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For Petitioner : Mr.T.Lajapathi Roy
For R1 : Mr.R.Murali
For R2 : No appearance

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned order, dated 27.10.2015 and consequently, to direct the respondent No.1 to provide pension and other all service benefits of the petitioner's son Maharajan including the sum paid to the respondent No.2 to the petitioner within the time stipulated by this Court.

2. The petitioner's deceased son namely Maharajan was working as Junior Engineer in the 1st respondent Corporation and on 21.09.1980, he married the second respondent, namely Muthumari. The contention of the petitioner is that the 2nd respondent developed friendship with one Sathuragiri and a dispute arose between the petitioner's son and the second respondent. Thereafter, they obtained a decree of divorce in H.M.O.P.No.101 of 1996, dated 03.07.1997. After the



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divorce, the second respondent got married the said Sathuragiri and living separately. The petitioner's son Maharajan died on 13.05.2012, while he was in service. The petitioner and the petitioner's son namely Karuppaiah are taking care of the grandchildren namely Menaka, Sudha, Lavaniya and Vikneshwaran. The petitioner being a grandmother had provided proper education to them and arranged marriage to them and due to her effort one of the legal heir namely Vigneshwaran got job on compassionate appointment. After the death of the petitioner's son, the second respondent applied for the terminal benefits and other service benefits without the petitioner's knowledge and received a sum of Rs. 7,50,000/- by way of providing false legal heir certificate. The 1st respondent Corporation also disbursed the said service benefits without enquiring about the real legal heirs. Therefore, the family members lodged a complaint to the 1st respondent Corporation and sought to recover the said amount from the second respondent. In the meanwhile, on 21.09.2014, the petitioner sent a legal notice to the 1st respondent Corporation and narrated all facts and sought to recover the money and provide pension. On 30.12.2014, the 1st respondent issued a



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communication stating that the pension benefit which is given to the second respondent has been stopped as per the Rule 49 of pension rule. In the meanwhile, on 16.07.2015, the Tamil Nadu State Legal Service Authority, Chennai (Pension Adalat), sent a letter to the petitioner and asked them to appear on 16.08.2015 with regard to the said pension dispute. Due to health condition, the petitioner did not appear but the petitioner's brother namely Karuppiyah appeared before the enquiry. At that time, the learned Counsel for the second respondent stated that 2nd respondent is receiving pension benefits. Subsequently, on 22.09.2015, the petitioner sent a legal notice to the 1st respondent narrating the incident that has happened before the Lok Adalat and requested to stop the pension benefits to the 2nd respondent. On 27.10.2015, the 1st respondent issued the present impugned order and stated that as per the objection letter, dated 09.09.2014, the pension benefits had been stopped to the 2nd respondent. The petitioner is aged about 75 years and struggling for her own existence. Over and above, the petitioner is taking care of 4 grandchildren, who are the children of her deceased son. Therefore, the petitioner has filed this writ petition to quash the impugned order



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and direct the respondents to pay the terminal benefits and pension to the petitioner.

3. When the writ petition was taken up for hearing, the learned Counsel appearing for the petitioner submitted that the petitioner namely Papathiyammal also died and the petitioner has filed a substitution petition in W.M.P.(MD)No. 19412 of 2022, whereby, the deceased Papathiyammal's daughter and sons were impleaded as parties. This Court is of the considered opinion that the deceased Papathiyammal's sons and daughter are not legal heirs. Therefore, the substitution petition cannot and accepted. Hence, the substitution petition in W.M.P.(MD)No. 19412 of 2022 is dismissed.

4. The legal heirs of the deceased Maharajan is enclosed in the typed set of paper filed by the 2nd respondent. The Deputy Tahsildar, Madurai North, has issued a legal heir certificate, dated 27.06.2012, whereby it is stated that the following are the legal heirs of the deceased Maharajan:



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- i.M.Muthumari wife aged 50 widow
- ii.Menaka daughter aged 30 married
- iii.M.Vikneswaran son aged 25 married
- iv.M.Sudha daughter aged 23 unmarried
- v.M.Lavanya daughter aged 20 married
- vi.P.Papathiyammal mother aged 75 widow

According to the petitioner, this legal heir certificate is illegal, since this legal heir certificate has included Muthumari's name, but the said Muthumari was already divorced as early as 03.07.1997, the 2nd respondent deliberately and falsely obtained this legal heir certificate, in order to enjoy the terminal benefits of the deceased Maharajan. Therefore, the said Muthumari is not entitled to any terminal benefits available in the name of the deceased Maharajan.

5. In the legal heir certificate, the name of Papathiyammal is there, who is the mother of the deceased Maharajan. As on date, the said Papathiyammal also died. Therefore, the other legal heirs who are the sons and daughters of the



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deceased Maharajan are eligible for terminal benefits and pensionary benefits. As on today, all the four legal heirs have attained majority. Therefore, they are not entitled to any pensionary benefits. When the legal heir certificate was issued as early as 2012, all children had attained majority. As far as marital status is concerned, except Sudha, others are married. Hence the unmarried daughter Sudha is entitled, until she is married. It is seen that the son Vikneshwaran was granted compassionate appointment. Hence the petitioner is entitled to until her death. The unmarried daughter Sudha is entitled until her marriage.

6. Therefore this Court is remitting the case to the 1st respondent and consider the case of the petitioner and disburse the same to the children of the deceased Maharajan. The children of Maharajan are directed to submit a fresh representation along with this order and the 1st respondent shall consider and pass orders and the available terminal benefits which has accrued shall be paid to the said legal heirs as stated supra.



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7. The legal heirs are at liberty to take appropriate steps to recover whatever amount the 2nd respondent has received from the 1st respondent. With the above said observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Internet : Yes
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