



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.22302 of 2021

D.Renuga Devi

... Petitioner

versus

1. The Director of Collegiate Education,
9th Floor, EVK Sampath Buildings,
College Road,
Chennai - 600 006.
2. The Joint Director of Collegiate Education,
Palam Station Road,
Opposite to Ganapathy Silks,
Sellur, Madurai - 625 002.
3. The Secretary and Principal In-charge,
Devanagar Arts College,
Arupukottai - 626 101,
Virudhunagar District.
4. The Secretary to Government of Tamil Nadu,
Department of Higher Education,
Fort St. George,
Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents to pay the arrears of salary, leave encashment, GPF, Special Provident Fund, DCRG and family benefit fund of the petitioner's husband Mr.R.Ramaraj to the petitioner in view of the order dated 12.05.2011 passed in W.P.(MD)No.9583 of 2006.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.A.Kannan,
Additional Government Pleader

ORDER

The petitioner, who is aged about 71 years, has approached this Court for a Mandamus, directing the respondents to pay the arrears of salary, leave encashment, GPF, Special Provident Fund, DCRG and family benefit fund of her husband, namely Ramaraj, in view of the order passed by this Court in W.P.(MD)No.9583 of 2006 dated 12.05.2011.



2. The petitioner's husband one Ramaraj, was appointed as a Physical Director in the third respondent Devanagar Arts College, Arupukottai, on 14.09.1970 and he rendered 25 years of unblemished service. Unfortunately, he became mentally unstable and left the house on 12.01.1995. Therefore, the petitioner's husband was treated as absent. Thereafter, the petitioner's husband was brought by some persons from Ramalinga Adigalar Ashram, Vadalur, but, in a very sick condition. In view of his health, he could not join duty and he was hospitalized for treatment. After taking treatment, he gradually recovered from his sick condition and on his recovery, he was allowed to rejoin duty and his absence was treated as leave on loss of pay. Subsequently, he became insane and vanished from house in the year 2000 and thereafter, he died in the year 2004.

3. The petitioner, who is the legally wedded wife of the deceased employee, made a request to the respondents on 24.06.2006 to pay the retirement benefits of her husband. But, she was informed that her husband was dismissed from service in the year 2006 itself. Aggrieved by the same, the petitioner filed a writ petition before this Court in W.P.(MD)No.9583 of 2006 to quash the order of dismissal dated 15.09.2006. This Court, vide order dated 12.05.2011 allowed the writ petition in the following terms:

"In the result, the Writ Petition is allowed, leaving the parties to bear their own costs. Accordingly, the impugned order of the 3rd respondent/College dated 15.09.2006 is set aside. The 3rd respondent/College is directed to pay the arrears of salary, Leave Encashment, G.P.F. Amount, Special Provident Fund, D.C.R.G. Fund, Family Benefit Fund as per rules relating to the petitioner's husband to the petitioner by scrupulously following the Government Orders, Letters/Circulars as envisaged by law. Inasmuch as the petitioner's husband has been permitted by the 3rd respondent to proceed on voluntary retirement as per College Committee's Resolution dated 14.08.2001, it is open to the 3rd respondent/College to treat the petitioner's husband's long unauthorized absence either as leave on loss of pay or without pay, as it deems fit and proper, in the manner known to law. If situation warrants the petitioner is to execute an indemnity bond as specified in Government Letter No.21396-A/Pension/92-2 dated 09.04.1991."

With the order of this Court, the petitioner approached the third respondent and submitted a representation. The third respondent directed the petitioner to obtain a legal heir certificate. When the petitioner approached the Tahsildar, Arupukottai for a legal heir certificate, he in turn directed the petitioner to approach the civil forum for a necessary relief as her husband was missing for more than seven years.



4. The petitioner has also filed a suit before the District Munsif Court, Aruppukottai in O.S.No.82 of 2012 seeking for a declaration of civil death of her husband including against the third respondent. The learned District Munsif, Aruppukottai, decreed the suit on 27.03.2015. The petitioner, along with legal heir certificate and other documents, approached the third respondent again. But, till date, the petitioner was not paid the retirement benefits. Therefore, the petitioner has approached this Court.

5. Considering the manner in which an octogenarian was driven from pillar to post for getting her husband's terminal benefits, this Court, on earlier occasion, directed the second respondent to be present before this Court.

6. Today, the second respondent appeared before this Court and submits that there is a management dispute in the third respondent college. As per G.O.Ms.No.121, the third respondent College is under direct payment by the Government. He further submits that as per the Government Order, the Joint Director is having power to disburse the salary alone and he is not having power to take a decision on payment of retirement benefits which is due to the petitioner.

7. Considering the rival submissions made, this Court issues the following directions:

"The second respondent/Joint Director of Collegiate Education, shall assess the eligible retirement benefits of the petitioner after calculating the leave period and other eligible amount, which are due to the petitioner's husband, within a period of four weeks from the date of receipt of a copy of this order and shall made a proposal to the fourth respondent. The fourth respondent shall take a decision and disburse the retirement benefits of the petitioner's husband to the petitioner within a period of four weeks from thereon."

8. With the above directions, the writ petition is disposed of. No costs.

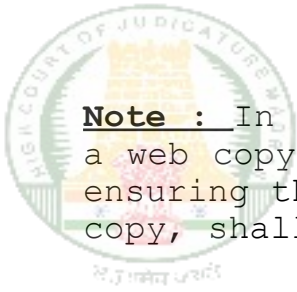
Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

WEB COPY

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+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-4419[F] dated 07/02/2022)

+1 CC to M/s.SPL.GP (SR-4543[F] dated 07/02/2022)

W.P (MD) No.22302 of 2021

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