



W.P.(MD).No.11712 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :28.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.11712 of 2016
and
W.M.P.(MD).No.8990 of 2016**

M.Muthulakshmi

... Petitioner

Vs.

1.The Accountant General, A&E,
Pension Department,
361, Annasalai, Thenampet,
Chennai-18.

2.The District Collector,
Ramanathapuram District,
Ramanathapuram.

3.The Block Development Officer,
R.S.Mangalam,
Ramanathapuram District.

4.Anbukarasi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent proceedings in Na.Ka.A1/3536/2014 dated 30.04.2015 and quash the same as illegal and consequently directing the respondents to pay the entire retirement benefits of the petitioner's son namely M.Ganesan.



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For Petitioner : No Appearance
For R-1 : Mr.P.Gunasekaran
For R-2 : Mr.P.Thambidurai,
Government Advocate.
For R-3 : No Appearance
For R-4 : Mr.S.Visvalingam

ORDER

This Writ Petition is filed challenging the impugned order dated 30.04.2015 and consequently directing the respondents to pay the entire retirement benefits of the petitioner's son namely M.Ganesan.

2. The brief facts as stated in the affidavit are that the petitioner is a widow and having 8 children. One of her son namely, Ganesan, has worked as Rural Welfare Officer Grade-I in Panchayat Union, R.S.Mangalam. The said Ganesan joined in the Government service in the year 1997 and had married one Anbukarasi in the year 2005. Unfortunately, the petitioner's son died on 27.11.2013. In the meantime, there is a family dispute between the said Ganesan and his wife and his wife sent an advocate's notice to the petitioner's



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son and filed the Maintenance Petition before the Judicial Magistrate, Deyakottai in the year 2012. The petitioner submitted various representations to the respondents and one such representation dated 02.06.2014 was submitted for granting compassionate appointment to the grandson of the petitioner and the same was rejected vide order dated 19.06.2014 stating that the said grandson is only 7 years old and minor is not eligible for appointment. The petitioner's son received loans from various persons and such persons issued notice insisting the petitioner to repay the loan. Hence, the petitioner filed Grievance Petition dated 11.08.2014 which was received by the first respondent and forwarded to the second respondent through letter dated 19.02.2015. The petitioner is having 8 children 5 sons and 3 daughters. The eighth son is the deceased Ganesan, who is the husband of the fourth respondent. Since the petitioner is the mother of the deceased Ganesan who is liable to repay the loan as requested, the respondents ought to pay the terminal benefits to the petitioner as a mother. Since the same was rejected through the impugned order, where it has been stated that the deceased employee Ganesan has nominated the fourth respondent, the wife of the deceased, as nominee for all his benefits and hence the petitioner is not entitled to. Aggrieved over the reply of the respondent, the present Writ Petition is filed.



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3. At the time of admission, this Court granted interim order vide order dated 01.07.2016 thereby staying the impugned order. The interim order came to be passed by invoking the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, because the petitioner is the mother of the deceased employee.

4. The learned counsel appearing for the fourth respondent submitted that even though the petitioner is having 8 children that is 5 sons and 3 daughters and the petitioner is a widow, she is receiving pension through her late husband Muthuramalingam. Therefore, the petitioner is not under any financial difficulties. But the fourth respondent is solely dependent upon the terminal benefits of the deceased employee and she is also having a minor son. Admittedly, there was some dispute between the petitioner's son Ganesan and the fourth respondent, where the fourth respondent has filed Maintenance Petition. The petitioner being the mother of the deceased employee is aggrieved by the Maintenance Petition, hence she come up with this vexatious petition.



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5. This Court is of the considered opinion that the writ petitioner cannot invoke the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, since she is already having eight children, other than deceased Ganesan and the other children are alive. Apart from this, she is also receiving pension through P.P.No.511806FA. Even though there were some disputes between the deceased Ganesan and his wife, the deceased Ganesan had nominated his wife in his service records. Moreover, the deceased Ganesan has not deleted the nomination until his death. Therefore, this Court is of the considered opinion that the claim of the petitioner cannot be entertained and the petitioner is not entitled to claim the entire benefits of the deceased son that too by invoking the Maintenance and Welfare of Parents and Senior Citizen Act, 2007.

6. The Learned Counsel appearing for the fourth respondent submitted that because of the pendency of the Writ Petition and stay, the fourth respondent could not receive any terminal benefits until today.

7. Therefore, this Court is directing the official respondents to disburse the terminal benefits to the fourth respondent. The second respondent shall



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submit the proposal within a period of (1) one week from the date of receipt of a copy of this order and the Accountant General, the first respondent shall process the same within a period of four (4) weeks thereafter.

8. The learned counsel appearing for the petitioner submitted that he had given change of vakalat and handed over the bundle. However, the Learned Counsel for the fourth respondent submitted that the fourth respondent is penniless and hence prayed to grant the terminal benefits of her deceased husband. Hence, this Court is not inclined to grant adjournment.

9. This Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

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Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

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