



W.P.No.17173 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2023

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.17173 of 2011

K.Banumathi

.. Petitioner

Versus

1. The Superintending Engineer,
Tamil Nadu Electricity Board,
Paramathi Road, Namakkal.

2. The Chief Internal Audit Officer,
Board Office Audit Branch,
1st floor, Electricity Avenue,
No.800, Anna Salai,
Chennai - 600 002.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for the records from the file of the 1st respondent made in Ka.No.003793/Ni.Pi.2/Ni.U.3/Tha.Pa.No.133/Pro.142/2011, dated 08.04.2011 and quash the same and further direct the respondents to grant family pension which is eligible by the petitioner with family security fund and life time arrears of the deceased husband of the petitioner based on her application, dated 07.02.2011.

For Petitioner : Mr.C.Kulanthaivel

For Respondents : Mr.K.Purushothaman,
for TNEB, for R1



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: R2 - No Appearance

ORDER

This Writ Petition is filed challenging the order, dated 08.04.2011, in and by which, the claim for Family Pension by the petitioner is rejected.

2. The brief facts leading to filing of this Writ Petition are that the petitioner is the wife of one *S.Krishnamoorthi* who worked as Foreman Grade-I in the Tamil Nadu Electricity Board and superannuated from service as on 30.06.2009. It is evident from the records that the said *S.Krishnamoorthi* had first married the petitioner namely, *K.Banumathi* and even while marriage was subsisting, he had married for the second time and one son by name *Senthil Kumar* was also born through that marriage. Under the said circumstances, the said *S.Krishnamoorthi* did not nominate any person in his records during his life time. However, he passed away on 30.10.2010 and thereafter, a Legal Heirship Certificate is also issued by the Tahsildar, Thiruchengode. As per the Legal Heirship Certificate, he was survived by one Thangammal, his mother; the petitioner, being his wife and two sons, one through the petitioner, *K.Banumathi* and the other one through the second wife. Under these circumstances, when the petitioner



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made an application for grant of Family Pension with reference to P.P.O.76877, the same is now rejected by the impugned order.

3. The two reasons for rejection are that firstly, the said *S.Krishnamoorthi* has not nominated anybody. Secondly, even the Ration Card produced by the petitioner does not disclose the name of the said *S.Krishnamoorthi*. There is no mandatory rule that in the absence of nomination by the deceased employee, Family Pension cannot be given. Once the petitioner proved that she is the spouse of the deceased employee, then as per the scheme, she is entitled to Family Pension. Secondly, it can be seen that in the peculiar circumstances, when the deceased employee was having two families, he has not lent his name in the Family Card which is separately issued to the petitioner and her children. In that view of the matter, the name of the deceased employee not being found in the Family Card alone cannot be the conclusive proof to decide that the petitioner is not the wife of the said *S.Krishnamoorthi*.

4. On the contrary, no other material is placed on record by the respondent to discredit the claim of the petitioner that she is the lawful wife



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of the deceased employee. The petitioner has also produced the Legal Heirship Certificate issued by the jurisdictional Tahsildar. The entries therein are not disputed. In that view of the matter, when the petitioner is duly entitled for the family pension, the reasons mentioned in the impugned order rejecting the grant of Family Pension are untenable.

5. In view thereof, this Writ Petition is allowed on the following terms

:-

(i) The impugned order, dated 08.04.2011 shall stand quashed;

(ii) The respondents shall pass orders granting Family Pension to the petitioner with effect from the date of death of the said *S.Krishnamoorthi* and all arrears shall be paid to the petitioner within a period of three months from the date of receipt of a copy of this order;

(iii) If the entire arrears are not settled within the period of three months, then the same shall be payable with further interest at the rate of 9% per annum from the date on which the Family Pension became due till settlement. No costs.

29.11.2023

Index : yes



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Speaking order

Neutral Citation : no
grs

To

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D.BHARATHA CHAKRAVARTHY, J.

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