



WEB COPY



W.P. No. 19633 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 19633 of 2013

1. Vettrikodi

2. M.Baskar

... Petitioners

-VS-

1. The Commissioner,
Coimbatore Corporation,
Town Hall Road,
Coimbatore – 641 005.

2. The Assistant Commissioner,
East Zone,
Coimbatore Corporation,
Town Hall Road,
Coimbatore – 641 005.

3. M. Praveen Kumar

4. Arun Prasad

5. Pradeep Raj

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records in pursuant to the proceedings of the Second Respondent in Oo.Mu.No.12499/2011/Ki.C1 dated 25.04.2013 and quash the same and consequently, direct the Second Respondent to disburse the death benefit to the Petitioners and pension to the First Petitioner with interest.



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For Petitioners : Mr. G.Ponnambala Thiagarajan
For R1 & R2 : Mr. K.Magesh
For R3 to R5 : No appearance

ORDER

Heard Mr. G.Ponnambala Thiagarajan, Learned Counsel for the Petitioner and Mr. K.Magesh, Learned Counsel for the First and Second Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioners that the husband of the First Petitioner and the father of the Second Petitioner, viz., C.Muthusamy, who was employed as Special Tax Inspector in the services of the First Respondent, died on 22.01.2001 while in service, but his terminal benefits were not released to them as there were rival claims from the Third to Fifth Respondents also as his legal heirs. In that backdrop, the Petitioners have filed the suit in O.S. No. 2773 of 2006 before the II Additional District Munsif Court, Coimbatore in which a judgment and decree dated 29.06.2010 was passed declaring the Petitioners and the Third to Fifth Respondents as the legal heirs of the said deceased C.Muthusamy. However, despite representations dated 22.12.2010 and



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21.11.2011 made by the Petitioners seeking payment of their shares of the terminal benefits of the said deceased C.Muthusamy, the Second Respondent by Proceedings in Na.Ka. No. 12495/2010/KiCi1 dated 08.02.2011 and Proceedings in O.Mu. No. 12499/2011/KiCi1 dated 25.04.2013 declined to grant the same in the absence of production of 'no objection' certificate from the Third to Fifth Respondents, which is assailed in this Writ Petition, apart from the seeking consequential directions in that regard.

3. Before proceeding further, it would be beneficial to refer to the ruling of the Hon'ble Supreme Court of India in the decision in ***Rameshwari Devi -vs- State of Bihar*** [(2000) 2 SCC 431], where it has been observed as follows:-

13..... When there are two claimants to the pensionary benefits of a deceased employee and there is no nomination wherever required, the State Government has to hold an inquiry as to the rightful claimant. Disbursement of pension cannot wait till a civil court pronounces upon the respective rights of the parties. That would certainly be a long-drawn affair. The doors of civil courts are always open to any party after and even before a decision is reached by the State Government as to who is entitled to pensionary benefits. Of course, inquiry conducted by the State Government cannot be a sham affair and it could also not be



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arbitrary. The decision has to be taken in a bona fide, reasonable and rational manner.

Having regard to the aforesaid legal position, it is evident that the impugned order declining the terminal benefits to the Petitioners has been passed without carrying out the aforesaid exercise. Consequently, the impugned order passed by the Second Respondent is set aside and the matter is remitted to the First and Second Respondents to conduct enquiry, after due notice to the Petitioners, the Third to Fifth Respondents and other legal heirs, if any, of the said C.Muthusamy, and depending upon its outcome, communicate the decision taken and make payment of the terminal benefits to the eligible persons under written acknowledgment within a period of three months from the date of receipt of copy of this order, and file report of compliance before the Registrar (Judicial) of the Court.

In fine, the Writ Petition is ordered on the aforesaid terms. No costs.

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Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 05.06.2024.



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To

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1. The Commissioner,
Coimbatore Corporation,
Town Hall Road,
Coimbatore – 641 005.
2. The Assistant Commissioner,
East Zone,
Coimbatore Corporation,
Town Hall Road,
Coimbatore – 641 005.

Copy to

1. The Registrar (Judicial),
Madras High Court,
Chennai – 600104.
2. K.Vettrikodi,
W/o. Late C.Muthusamy,
1630, Annai Indra Nagar,
Chokkampudur,
Coimbatore – 641 039.
3. M.Baskar,
S/o. Late C.Muthusamy,
1630, Annai Indra Nagar,
Chokkampudur,
Coimbatore – 641 039.
4. M.Praveen Kumar,
S/o. Late C.Muthusamy,
No. 35, Thiyagi Kumaran Street,
P.N.Pudhur,
Coimbatore – 641 041.
5. Arun Prasad,
S/o. Late C.Muthusamy,
No. 35, Thiyagi Kumaran Street,
P.N.Pudhur,
Coimbatore – 641 041.



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6. Pradeep Raj,
S/o. Late C.Muthusamy,
No.35, Thiyagi Kumaran Street,
P.N.Pudhur,
Coimbatore – 641 041.



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P.D. AUDIKESAVALU, J.

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