



W.P. No.5580 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.06.2023

Pronounced on : 03.08.2023

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.5580 of 2011

and

M.P. No.1 of 2011

P.B.Rangarajan

... Petitioner

V.

1.The Principal Accountant General,
Office of the Accountant General (A&E),
Tamil Nadu, No.361, Anna Salai,
Teynampet, Chennai-600 018.

2.The Corporation of Coimbatore,
Rep. by its Commissioner,
Coimbatore-641 001.

3.The Education Officer,
Corporation of Coimbatore,
Coimbatore.

4.R.Karthik Raja,
Rep. by his Guardian Mrs.Soundammal.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to pay the petitioner the remaining terminal benefits such as provident fund, Special Provident Fund, earned leave encashment, Family Benefit Fund, Pay



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Commissioner arrears and other benefits which are due to his wife within a time limit fixed by this Court on his undertaking that all these amounts including Gratuity and pension will be deposited in a nationalised Bank in the name of his son Karthik Raja which he can withdraw on his attaining 25 years of age and on the petitioner further undertaking that he will relinquish all his claims for any part of the said amounts.

For Petitioner : Mr.V.Govardhanan
for M/s.Row and Reddy

For Respondents : M/s.T.S.Selvarani (for R1)
Mr.Najeeb Usman Khan (for R2 & R3)
(for Corporation of Coimbatore)
No appearance for R4

ORDER

The writ petition has been filed praying for a writ of mandamus to direct the respondents to pay the petitioner the remaining terminal benefits such as Provident Fund, Special Provident Fund, earned leave encashment, Family Benefit Fund, Pay Commission arrears and other benefits due to his wife within a time limit fixed by this Court on his undertaking that all these amounts including Gratuity and pension will be deposited in a nationalised Bank in the name of his son Karthik Raja which he can withdraw on attaining 25 years of age and the petitioner further undertakes that he will relinquish all his claims with regard to the said amounts.

2. The petitioner is the husband of the deceased employee



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Mrs.P.Savithri. The petitioner got married to P.Savithri on 01.07.1993.

Their son viz., Karthik Raja was born out of the wedlock on 14.10.1994 and is represented in this writ petition by one Mrs.Soundammal, i.e., his grandmother. The petitioner admittedly parted ways with his wife P.Savithri, who started living with the 4th Respondent. A H.M.O.P.No.434 of 1998 seeking dissolution of marriage was filed by the deceased P.Savithri before the Family Court, Coimbatore, which was dismissed for default on 03.11.2000. P.Savithri died on 31.12.2002.

3. The 4th Respondent, i.e., grandmother of Karthik Raja filed G.W.O.P.No.64 of 2003 before the Family Court, Coimbatore for appointing her as guardian of the then minor Karthik Raja. On 27.02.2004, the G.W.O.P. was allowed and the 4th Respondent was appointed as the guardian, which was carried by way of an appeal before this Court in C.M.A.(NPD).No.2270 of 2004, wherein the following order was made on 12.08.2004:



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"4. It is seen from the order of the Court below that a finding is rendered to the effect that the appellant has not chosen even to visit the child for more than five years from the date of his birth. The documents marked on behalf of the appellant before the Court below are of the documents pertaining to the disputes between the appellant and his wife and none of the said document would establish that the appellant has made any attempt either to visit the child or expressing to give education or to look after the child, whereas Ex.P-1 and P-2 would disclose that the respondent herein has admitted the minor child in the school. Ex.P-3 also discloses that the school fees of the minor child was paid by the respondent herein. Ex.P-4 is the ration card which discloses that the minor child is living with the respondent herein.

5. In the light of the above material evidence and other pleadings on record, the Court below has correctly held that the interest of the minor will be protected only if the respondent herein is appointed as a guardian. Therefore, we do not see any ground to interfere with the order of the Court below."

4. There were other terminal benefits which was yet to be paid such as Provident Fund, Special Provident Fund etc., The petitioner filed a writ petition in W.P.No.10042 of 2008 praying for a direction to the respondents to sanction and pay the family pension to the petitioner. The above writ petition came to be disposed of on 23.04.2008 with a direction to the 1st Respondent to dispose of the representation on merits within a period of 8 weeks from the date of receipt of a copy of the order. Thereafter, the family



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pension was directed to be paid to the petitioner vide proceedings dated 14.08.2008 and the same was also paid to the petitioner.

5. The petitioner submitted a representation on 26.06.2009 to pay the remaining terminal benefits. The 2nd Respondent directed the petitioner to obtain appropriate orders from Court while rejecting the above request on the basis that the petitioner had not furnished any order of the Court.

6. The petitioner filed the present writ petition praying for a writ of Mandamus directing to pay the remaining terminal benefits such as Provident Fund, Special Provident Fund, earned leave encashment, Family Benefit Fund, Pay Commission arrears and other benefits. Importantly, the petitioner had made it clear at para 8 of the affidavit filed in support of this writ petition that he is willing to deposit the remaining benefits due to his wife in a nationalised bank in his son's name while undertaking to relinquish his right over the said amount. It is submitted by the learned counsel for the petitioner that despite the above undertaking, the Respondents have not paid the remaining terminal benefits either to the petitioner nor have they



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deposited the same in an interest bearing deposit. It was thus submitted that the Respondents may be directed to pay the amount to his son along with interest.

7. The learned counsel for the 2nd Respondent and 3rd Respondent by placing reliance on the counter would submit that the petitioner had suppressed the fact regarding the petition filed by the 4th Respondent herein under Section 372 of the Indian Succession Act seeking for Succession Certificate to succeed to the various retirement benefits of P.Savithri including the Family Retirement Fund, Welfare Fund, Provident Fund, Gratuity, Special Provident Fund etc. It was further submitted by the learned counsel that the Principal Subordinate Judge, Coimbatore, allowed the order in S.O.P.No.40 of 2004 on 04.09.2006 and ordered Tmt.Soundammal as the guardian of the 4th Respondent viz., Karthik Raja to receive the retirement benefits of P.Savithri with a further direction that the amount must be deposited with the Nationalised bank, till such time the 4th Respondent attains majority. It is the submission of the learned counsel for the Respondents that it is only in view of the rival claim between the



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petitioner and the guardian of the 4th Respondent that there has been delay in settlement of the retirement benefits.

8. With the passage of time and in the light of the submission made by the petitioner in his affidavit filed in support of the writ petition that he would relinquish his rights over the said amount, all the above issues pales into irrelevance. The writ petition was filed when the petitioner's son was 15 years old. The petitioner's son would have attained majority by now. Therefore, it is open to the petitioner's son viz., Karthik Raja to submit a representation for payment of the remaining terminal benefits due to his mother viz., P.Savithri while also claiming interest, if any. If any such representation is made, the Respondents would consider the same within a period of 8 weeks from the date of receipt of such representation. The claim of interest would also be considered by the Respondents while disposing of the representation.



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9. With the above direction, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No
Speaking Order: Yes/No
Neutral Citation: Yes/No
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To:

1. The Principal Accountant General,
Office of the Accountant General (A&E),
Tamil Nadu, No.361, Anna Salai,
Teynampet, Chennai-600 018.
2. The Commissioner,
Corporation of Coimbatore,
Coimbatore-641 001.
3. The Education Officer,
Corporation of Coimbatore,
Coimbatore.

MOHAMMED SHAFFIQ, J.



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Pre-Delivery order in
W.P. No.5580 of 2011
and
M.P. No.1 of 2011

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