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W.P.No.30224 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28..02..2023

Coram

The Honourable **MR.JUSTICE M.S.RAMESH**

Writ Petition No.30224 of 2016

1.R.Suguna (Deceased)

2.K.Gowthaman

3.G.Sangeetha

4.G.Vignesh Reddy

[Petitioners 2 to 4 substituted as LR's of deceased sole petitioner vide order dated 31.01.2023 made in W.M.P.No.26323 of 2022 in W.P.No.30224 of 2016]

..... Petitioners

-Versus-

The Director,
Social Welfare Department,
Government of Tamil Nadu,
Guindy, Chennai 600032.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to re-fix the pay of the deceased employee viz., R.Suguna, the 1st petitioner by granting her annual increments together with arrears and also consider her name for notional promotion as Assistant on par with her colleagues along with consequential benefits including seniority and pay, etc.



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*For Petitioners : Mr.V.Vijay Shankar for
Petitioners 2 to 4*

*For Respondent : Mr.D.Gopal,
Government Advocate*

ORDER

The petitioners 2 to 4 herein are the legal heirs of late R.Suguna, a member of a Scheduled Tribe Community, who was selected and appointed as Typist by the Tamil Nadu Public Service Commission on 01.06.2006. After appointment, her community certificate was subjected for verification before the State Level Scrutiny Committee (for short 'the SLSC). Pending scrutiny of community certificate, the late employee was denied annual increments and promotion to the post of Assistant. In this back ground, she had died in harness on 14.02.2020. Pursuant to her death, the Chairman of State Level Scrutiny Committee had passed an order on 11.03.2022 stating that in view of the death of R.Suguna, the process of verification of her community status has abated. Accordingly, the process of verification of community certificate of the late employee came to be dropped. In this back ground, the petitioners herein, who are her legal heirs, now seek for re-fixation of pay of the late employee together with notional promotion for the post of Assistant.

2. The learned counsel for the petitioners 2 to 4 submitted that the



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deceased employee was due for promotion to the post of Assistant in 2015 itself and in view of the abatement of verification process of community certificate, the late employee is now entitled for all the benefits viz., Annual Increments, Notional Promotion, Re-fixation of Pay, Special Provident Fund (SPF), Surrender of Earned Leave and Unearned Leave on Private Affairs.

3. Per contra, the learned Government Advocate submitted that it is the routine practice for the department to subject the community certificates of the employees, who belong to the Scheduled Caste / Scheduled Tribe community for verification of the status of such certificates. In view of the pendency of the verification process, they were not in a position to extend the benefits of Annual Increments, Notional Promotion and Surrender of Earned Leave and Unearned Leave on Private Affairs and therefore, there is no infirmity in withholding of the same.

4. Strictly speaking, the decision of the respondent in withholding the annual increments and not granting the promotion cannot be found fault with, in view of the pendency of the verification of community



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certificate before the SLSC. However, since the employee had expired and the SLSC has also passed an order holding that the process of verification of community certificate as abated, the late employee would be entitled for all the benefits that may have accrued during her service and which may have been withheld by quoting the pendency of the community certificate verification process. It is not disputed that, but for the pendency of the community certificate verification, the late employee was otherwise qualified for being promoted to the post of Assistant. In this back ground, the petitioners 2 to 4, who are the legal heirs of late R.Suguna, would be entitled to receive all the accrued benefits, arising from grant of notional promotion, as well as the withheld monetary benefits.

5. In the light of the above findings and observations, there shall be a direction to the respondent to pass appropriate orders re-fixing the pay of the late employee viz., R.Suguna, w/o Gowthaman, by extending the benefits of annual increments, which were due to her and grant notional promotion to the post of Assistant from the crucial date in 2015. The respondent shall also pass necessary orders, enabling disbursement of the arrears of monetary benefits that would accrue due to the re-fixation of



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pay scale of the late employee, pursuant to the notional promotion, including the pending Death-cum-Retirement Gratuity, Surrender of Earned Leave Salaries & Unearned Leave on PA and Special Provident Fund. Such orders shall be passed at least within a period of four weeks from the date of receipt of a copy of this order. This Writ Petition is allowed accordingly with the above directions. No costs.

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Index : yes / no
Neutral Citation : yes / no
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To

1.The Director, Social Welfare Department, Government of Tamil Nadu,
Guindy, Chennai 600032.



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M.S.RAMESH.J.,

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