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W.P.No.13750 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.13750 of 2021

Mrs. Selvapriya N.P

.. Petitioner

Versus

Deputy Regional Provident Fund Commissioner
EPF Office,
Dr. Balasundaram Road,
Coimbatore 641 018.

.. Respondent

Prayer: This Writ petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondent to disburse the employees Provident Fund and Widow Pension pertaining to the EPF account no. TN/CBE/5779/36 standing in the name of Rajkumar Wilson with the respondent and to settle the Provident Fund amount with interest from March 2019 and the monthly widow pension.

For Petitioner : Mrs.Sangeetha Rajkumar
for Mr. J.R.Eswin

For Respondents : Mrs .R. Meenakshi(Standing counsel)



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ORDER

This petition is filed directing the respondent to disburse the employees Provident Fund and Widow Pension pertaining to the EPF account no. TN/CBE/5779/36 standing in the name of Rajkumar Wilson with the respondent and to settle the Provident Fund amount with interest from March 2019 and the monthly widow pension.

2. The case of the petitioner is that she married one Rajkumar who was an employee of Joontolee Tea and Industries Limited and he died on 06.06.2018. It is pertinent to note that the marriage between the petitioner and the deceased was the second marriage for both of them as they have lost their respective spouses earlier. Whiles after the demise of the petitioner's husband the petitioner approached the employer of the deceased namely Joontolee Tea and industries Limited to avail the Employees Provident Fund and Widow Pension on the premise that the nomination and declaration in Form-2 stood in her name. The further case of the petitioner is that one Rupa Ananth aged about 35 years who is



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the daughter of the first wife of the deceased also approached the Respondent for availing Employees Provident Fund and she is also the legal heir of the deceased. The grievance of the petitioner is that she had produced all the relevant documents to enable the employer of the deceased namely Joontolee Tea and industries Limited to proceed further. However the employer as well as the respondent has not taken any steps to settle the amount due to the petitioner. Hence this petition.

3. The learned counsel for the petitioner submitted that the nomination and declaration in Form-2 reveals the name of the petitioner. Even though there is a daughter for the first wife of the deceased, she is being excluded to receive the benefits of her father by virtue of her marriage. Hence there is no legal impediment for the respondent to disburse the Employees Provident Fund and Widow Pension. Hence she prays this Court to allow this petition.

4. The learned standing counsel appearing for the respondent has filed a counter statement wherein it has been stated that the petitioner has sought for the Pension benefits oblivious to the Scheme Provisions



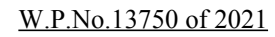
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under EPS Scheme, 1995. It has been further stated that the deceased member who attained the age of 58 years as on 20.07.2010 and opted out the Pension Scheme by leaving the Scheme on 21.07.2010. The member had availed the EPS benefit and continued his membership under EPF and EDLI till his death. As the benefit has already been availed by the deceased Member, the Widow is not eligible for any pensionary benefits under the EPS Scheme, 1995. The further contention of the learned Government Pleader is that the Department has taken strenuous efforts to ascertain the right claimant.

5. Heard both sides and perused the materials available on record.

6. Admittedly the facts of the case are not in dispute that the petitioner is a nominee as her name was nominated in the Form-2. As averred by the learned counsel for the petitioner, even assuming that the daughter of the first wife of the deceased is excluded to receive the benefits of her father by virtue of her marriage and the petitioner is the rightful claimant, the Respondent has no judicial power to conclude the same. Hence the petitioner ought to establish the same by filing a suit before the Competent Civil Court.



8. With the above observations, this present writ petition is disposed of. No costs.

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
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V.BHAVANI SUBBAROYAN, J.

smn

To.

Deputy Regional Provident Fund Commissioner
EPF Office,
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