IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

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THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.11796 of 2020

M.Ellammal ... petitioner

-Vs-

1. The Government High School,
Rep. By its Head Master,
Aththipakkam,
Thiruvannamalai District.

2. The Superintendent of Post Offices,
Thiruvannamalai Division,
Thiruvannamalai District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorarified Mandamus to call for the entire records relating to the impugned order passed by the second respondent in his proceedings No.RPLI/Death Claim dlgs dated at Thiruvannamalai 26.07.2016 and to quash the same as being illegal and unsustainable in law and consequently direct the respondents to disburse the life insurance amount of Rs.1,00,000/- from policy No.TN 589574-CS within a time frame fixed by this Court.

For petitioner : Mr.K.Thenrajan

For Respondent : Mr.V.Manoharan, AGP

O R D E R

This petition has been filed to call for the entire records relating to the impugned order passed by the second respondent in his proceedings

No.RPLI/Death Claim dlgs dated at Thiruvannamalai 26.07.2016 and to quash the same as being illegal and unsustainable in law and consequently direct the respondents to disburse the life insurance amount of Rs.1,00,000/- from policy No.TN 589574-CS within a time frame fixed by this Court.

2. The case of the petitioner is that she is the wife of deceased Muthamizh, who was working as a Junior Assistant in Government High School, Athippakkam, first respondent herein. When he was in service, he fell ill due to kidney and liver failure and died on 10.02.2014 by leaving his wife and children, mother as a legal heirs. Thereafter the petitioner came to know that her husband was insured in postal life insurance before the second respondent and it seems that from the year 2013, the amount was deducted from his salary and it was unfortunate that the premium was not deducted from the salary of his husband for the month January 2014 and on 10.02.2014, he died. After his demise, the petitioner approached the second respondent with a proper application on 05.04.2014 to disburse the death life insurance benefits. However, without considering her request, the second respondent rejected the application vide order dated 26.07.2016. Challenging the said order, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that the petitioner made application for payment of the PLI and the same was rejected by the respondent on the ground that the petitioners husband has not paid two months installments viz., January-2015 and February-2015. Admittedly, the petitioners husband admitted in the hospital in those months. However, the fact remains that the petitioner's employee viz., the first respondent have deducted the amount from the petitioner's husband salary and paid to the second respondent. However the second respondent rejected the petitioner's application stating that as per Section 39(2)(i) of the Rural Postal Life Insurance Scheme, the policy is treated as lapsed. Without non application of mind, the present impugned order has been passed.

4. The learned second respondent has filed counter and the relevant paragraphs are extracted hereunder:

> *"4. I state that I deny allegations it pars 2 of the affidavit and state that decision to reject the claim was based on Rule 39(2) of the Rural Postal Life Insurance scheme and the same was communicated to the petitioner. The decision was taken on the basis of statutory rules of Government of India, there is no question of illegality and it is sustainable in law.*
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> *5. I state that as per the death certificate issued by the corporation of chennai, the insurant S.Mutharnizh died on 10.02.2014. It was verified by senior Superintendent of post officer, chennai city north division.*

6. I state that I Deny allegations in para 5 of the affidavit and state the Policy in No. TN 559574-CS was accepted on 03.10.2013. As per the premium recovery certificate issued by Head Master government High School, Athipakkam, the premium for the said policy was paid only for two months i.e., November and December 2013.

7. I state that I deny allegations in Para 6 of the affidavit and state that the claim application was received by Arni, Circle Processing Centre on 05.07.2014. The premium for the said policy was Rs.1055/- and the same has been recovered from the salary of the late insurant for the month of November and December 2013. The late insurant has not paid premium for subsequent months January and February 2014,i.e., till his death on 10.02.2014. As per rule 39 (2)(i) of the Rural postal life Insurance scheme in case if the death of the life assured occurs Within 6 Month. of date of acceptance of the policy, no remission period beyond the days of grace shall be allowed. As late Insurant had not paid the premium for 2 months, the above postal life insurance Policy was treated as lapsed as per statutory rules. As such the said insurance policy was lapsed one and the death claim on such lapsed policy, was rejected by the Postmaster General. Chennai city region. Chennai-600002 Vide Lr. No: RPLI/TVM/DC/2015 dated 15.07.2016. The above was duly communicated by the Superintendent of Post Offices, Tiruvannamalai Division Vide letter No. RPLI/Death clam dated

26.07.2016.

8. I state that I deny allegations in pars 7, 8, 9 of the affidavit and specifically state that the petitioner was duly informed with appropriate facts with regard to statutory rules governing postal life insurance schemes. No assurance was given to the petitioner contradicting to the statutory rules of department at any Point of time- Every official is bound by the statutory rules framed by the government. As such the official acted upon and all relevant facts were communicated promptly to the petitioner. The petitioner was informed many times and communicated on all relevant facts on the basis on which the said death claim has been rejected.

9. I state that I deny allegations in para 10 a, b, c, d and state that the said order of the department is in order and has issued on considering all relevant facts and after following appropriate procedure in accordance with statutory rules of government. Failure on the part of 1st respondent is indicated by the petitioner but the premium was not paid to department in January a. February 2014. An insurance policy is based upon a contract between insured and insuring organization and hence the principles of natural justice will not apply in deciding death claim in insurance policies that too in lapsed policy. The petitioner was well informed several times regarding relevant facts on which the death claim was rejected."

5. Heard the learned counsel for the petitioner and the learned counsel

appearing for the respondents and perused the materials available on records.

6. The facts in the present case are not in dispute. Admittedly, the petitioners husband had insured with the second respondent on 21.10.2013. It is also admitted fact that the first respondent deducted the insurance premium from the petitioner's husband salary and paid to the second respondent upto December 2013. However, the petitioner's husband admitted in the hospital due to illness in January 2014 and subsequently, he died on 10.02.2014. After death of the petitioners husband, she made a claim before the second respondent claiming the insurance amount and the same was rejected on the ground that premium for the month of January and February 2014 was not paid. It is the grievance of the petitioner that the premium was deducted from the petitioner's husbands salary and she was not filed the proof before the second respondent. The learned counsel for the petitioner submitted that the second respondent has not considered the matter under Rule 39(1) of the Insurance Act. For better understanding, the said Rule is extracted hereunder:-

39 Nomination by policy-holder. —

(1) The holder of a policy of life insurance [419] [on his own life [420] [***]] may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death: [421] [Provided that, where any

nominee is a minor, it shall be lawful for the policy-holder to appoint in the prescribed manner any person to receive the money secured by the policy in the event of his death during the minority of the nominee.]

7. On perusal of the above said Rule, which makes it clear that since the second respondent overlooked the legal fact with regard to the grace period raised by the petitioner, it would be appropriate to remand the matter back to the second respondent for fresh consideration. Accordingly, this Court sets aside the impugned order and remands the matter back to the second respondent, taking into account the respective contention of the petitioner and the law on the subject. The second respondent shall consider the said Rule and pass appropriate orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

8. With the above observation, the writ petition is allowed. No costs.

05.06.2023

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M.DHANDAPANI, J.

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To

1. The Government High School,
Rep. By its Head Master,
Aththipakkam,
Thiruvannamalai District.

2. The Superintendent of Post Offices,
Thiruvannamalai Division,
Thiruvannamalai District.

W.P.No.11609 of 2020

05.06.2023