



W.P.No.13349 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No.13349 of 2020

1.Madhan Kumar
2.Saranya

...Petitioners

-Vs-

1.Government of India
Rep by its Secretary to Government,
Southern Railway,
Ministry of Railway, New Delhi.

2.The General Manager,
Southern Railway,
Chennai

3.Sr.Divisional Security Commissioner (RPF)
Railway Protection Force,
5th Floor DRM Complex,
NGO Annex, Parktown,
Chennai - 600 003.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondents to consider the representation dated 11.06.2020 and consequently direct the respondents to grant or issue benefits in respect of the deceased Vasanthakumar father of the petitioners herein.



WEB COPY



W.P.No.13349 of 2020

For Petitioners : Mr.T.I.Ramanathan

For Respondents 2 & 3 : Mr.P.T.Ramkumar,
Standing Counsel

ORDER

This writ petition has been filed seeking a writ of mandamus to direct the respondents to consider the representation dated 11.06.2020 with a consequential direction to grant or issue benefits in respect of the deceased Vasanthakumar i.e., the father of the petitioners in the interest of justice.

2. A counter has been filed on behalf of the respondents.

3. The case of the petitioners is that the father of the petitioners worked as Inspector of Police in Southern Railway Protection Force at Madras. On 01.09.1985, the marriage of the petitioners' father with one Nagalakshmi i.e., the mother of the petitioners was performed. The mother of the petitioners died in the year 2002. During the course of employment, the father of the petitioners died on 23rd July 2019 leaving behind the petitioners as legal heirs of him. After the demise of the mother of the petitioners i.e., Nagalakshmi, the father of the petitioners neither married nor lived with any



other women till his demise. Till the demise of the father of the petitioners, the petitioners lived with their father. The petitioners submitted a representation dated 11.06.2020 to the second and third respondents to settle the benefits in favour of the petitioners and to provide a job under compassionate appointment scheme. Complaining that the said representation is not considered, the petitioners are constrained to file this writ petition.

4. On the other hand, in the counter affidavit filed by the respondents, it is averred that subsequent to the demise of the first wife of the father of the petitioners i.e., Nagalakshmi, he married one P.N.Gandhimathi on 16.09.2004. Due to their wedlock, they blessed with a daughter by name V.Madhivadhani in the year 2007. The deceased employee while working at Headquarters executed a revised nomination form on 27.06.2014 to receive his death benefits. In accordance with the said nomination, the respondents 2 and 3 by following Rules 70.4 & 74 of Railway Service Pension Rules, 1993 settled the death benefits of the deceased employee to the beneficiaries as per their eligibility. It is also stated in the counter affidavit that an amount of Rs.31,100/- has been arranged to P.N.Gandhimathi, the second wife of the deceased employee towards family pension as per Rule 75(6)(ii) and (iii) of



W.P.No.13349 of 2020

Railway Service Pension Rules, 1993. In the counter affidavit, it is further averred that the petitioners are aged about 35 and 33 years and both are married and living independently and as such, they are not entitled for compassionate appointment. Accordingly, the respondents sought to dismiss the writ petition.

5. Having heard the submissions of the respective counsels and careful perusal of the materials available on record, it appears that it is an admitted fact that the petitioners submitted a representation on 11.06.2020 to the respondents 2 and 3 seeking to settle the death benefits of their father and to provide appointment under compassionate scheme. It is also an admitted fact that the respondents 2 and 3 settled the death benefits of the deceased employee i.e., the father of the petitioners by following the relevant rules and in terms of the nomination made by the deceased employee. It is also admitted by the respondents that they have arranged family pension in favour of the second wife of the deceased employee i.e., P.N.Gandhimathi by following the relevant rules as she is legally entitled for that family pension as per the Rules.



6. Considering the averments made in the counter affidavit filed by the respondents and the submissions made by the learned standing counsel for the respondents 2 & 3, this Court is unable to accept the contentions of the petitioners' counsel that the petitioners are entitled for the death benefits of their deceased father. As and when the father of the petitioners submitted revised nomination form indicating the percentage of the benefits to be paid to all his legal heirs and the respondents 2 and 3 have settled the said benefits by following the Railway Service Pension Rules, 1993, in our considered opinion, there is no error committed by the respondents 2 and 3 in considering the request of the petitioners for death benefits of their father.

7. With regard to the request made by the petitioners to provide employment under compassionate scheme vide representation dated 11.06.2020, the respondents 2 and 3 ought to have considered the representation either positively or negatively by following the rules applicable on this issue or in terms of any scheme provided in their department to provide compassionate appointment. Their decision has to be informed to the petitioners to take further steps to ventilate their grievance. But without considering the representation of the petitioners on that aspect, keeping the representation pending for long period, it is not acceptable.



W.P.No.13349 of 2020

Under these circumstances, in our view, it is appropriate to direct the third respondent to consider the representation dated 11.06.2020 submitted by the petitioners seeking to provide appointment under compassionate ground as per the scheme prevailing in the department and inform their decision to the petitioners within the stipulated time.

8. Accordingly, for the above said reasons, this writ petition is **disposed of** with a direction to the third respondent to consider and examine the request of the petitioners to provide appointment under compassionate scheme in accordance with law within a period of four weeks from the date of receipt of a copy of this Order.

9. There shall be no order as to costs.

10. Consequently, connected writ miscellaneous petition is closed, if any.

14.06.2023

nl

Note: Issue order copy within three days from today.

Index: Yes/No

Speaking order/Non Speaking order

Neutral Citation: Yes/No



WEB COPY



W.P.No.13349 of 2020

To

- 1.The Secretary to Government,
Southern Railway,
Ministry of Railway, New Delhi.
- 2.The General Manager,
Southern Railway,
Chennai
- 3.Sr.Divisional Security Commissioner (RPF)
Railway Protection Force,
5th Floor DRM Complex,
NGO Annex, Parktown,
Chennai - 600 003.



WEB COPY



W.P.No.13349 of 2020

BATTU DEVANAND, J.

nl

W.P.No.13349 of 2020

14.06.2023