



WP.No.41663/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.07.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.41663/2016 & WMP.Nos.35654/2016, 28115/2019 & 8676/2020

B.Tamilselvi

... Petitioner

Versus

1.The State of Tamil Nadu
rep.by the Principal Secretary
Home Department, Secretariat
Fort St George, Chennai 600 009.

2.The Director General of Police
Tamil Nadu, Dr.Radhakrishnan Salai
Mylapore, Chennai 600 004.

3.The District Superintendent of Police
Tiruvarur District, Tiruvarur.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the entire records relating to order in Na.Ka.No.L2/Pension/2015 dated 02.10.2015 on the file of the 3rd respondent and quash the same and consequently, direct the respondents to pay all the terminal benefits due and payable to the petitioner on account of death of her husband K.Baskaran [PC 487].



WEB COPY



WP.No.41663/2016

For Petitioner : Mr.N.S.Sivakumar

For Respondents : Mr.U.Baranidharan, AGP

ORDER

- (1) The writ petition has been filed in the nature of a certiorarified mandamus, seeking interference in the order in Na.Ka.No.L2/Pension/2015 dated 02.10.2015 passed by the 3rd respondent, the Deputy Superintendent of Police, Tiruvarur District and direct the respondents to pay the terminal benefits due and payable to the petitioner consequent to the death of her husband Mr.K.Baskaran, a Police Constable No.487.
- (2) The husband of the petitioner appears to have led a very disinterested life. He had deserted his family. He had deserted the office where he was working. Nobody knew where he went. Consequent to his continuous absence, the respondents tried to serve notice on the petitioner herein and the petitioner also disclaimed knowledge of his whereabouts. A show cause notice was therefore issued and an enquiry was conducted in the absence of the husband of the petitioner herein. That absence was established and it was a very simple fact to



WP.No.41663/2016

WEB COPY

establish on comparison of the Attendance Register. The charge of absence stood established. Thereafter, the 3rd respondent passed the order of removal from service. That order had not been questioned. That order was passed on 09.12.2008. When that order was passed, the husband of the petitioner was very much alive. He subsequently died on 09.07.2015. It is stated that the husband of the petitioner had given a representation to the 3rd respondent explaining the reasons for his absence.

- (3) The grievance expressed by the learned counsel for the petitioner is that such representation had not been addressed or replied or examined by the 3rd respondent. Therefore, fault is found on the respondents for not having responded to the said representation.
- (4) Be that as it may, the order of removal from service was technically not challenged in any Court of law. After his death, the petitioner had given a representation stating that the pensionary benefits may be granted to the petitioner herein. She had stated that she has been left high and dry with two children. She had also stated that her husband had deserted her and she never knew where he went. She also did not



WP.No.41663/2016

WEB COPY

know whether he had been dismissed from service or whether he was still in service at the time of his death. This representation was rejected by the impugned order wherein it had been replied by 3rd respondent who stated that since the husband of the petitioner had been removed from service, she is not entitled for any retirement benefits.

- (5) However, it is trite in law to point out that the petitioner is entitled for the General Provident Fund which had accrued consequent to the service put in by her husband. Records reveal that he had put in about 22 years of service.
- (6) A direction is given to the 3rd respondent to once again re-examine the entire file relating to the husband of the petitioner and examine whether the husband of the petitioner had given any representation questioning his order of removal from service and if such representation is available in the records, to pass necessary orders on the same. The 3rd respondent may also at the same time, examine about the terminal benefits which are payable to the petitioner herein and it is contended by the learned Additional Government Pleader



WP.No.41663/2016

WEB COPY

that the General Provident Fund which is not paid, is payable to the petitioner herein and if it is not paid, make necessary arrangements to pay the same to the petitioner herein within a period of four months from the date of this order.

- (7) Both directions are issued to the 3rd respondent, namely, to examine the records relating to the husband of the petitioner Mr.K.Baskaran, Police Constable No.487, who died on 09.07.2015 and examine the representation which is said to have been given by him and pass necessary orders on the said representation and also examine the amounts which are due and payable to the petitioner and if so, direct release of payment of that amount.
- (8) With the above directions, the writ petition stands **disposed of**. No costs. Consequently, connected miscellaneous petitions are closed.

20.07.2023

AP
Internet : Yes



WP.No.41663/2016

To
WEB COPY

- 1.The Principal Secretary
State of Tamil Nadu
Home Department, Secretariat
Fort St George, Chennai 600 009.
- 2.The Director General of Police
Tamil Nadu, Dr.Radhakrishnan Salai
Mylapore, Chennai 600 004.
- 3.The District Superintendent of Police
Tiruvarur District, Tiruvarur.



WEB COPY



WP.No.41663/2016

C.V.KARTHIKEYAN, J.,

AP

WP.No.41663/2016

20.07.2023