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W.P.No.17631 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.17631 of 2020

V.Santha

... Petitioner

Vs.

1. The Regional Provident Fund Commissioner,
Employees' Provident Fund Organisation
Regional Office, Rajaji Salai,
Tambaram, Chennai – 600 045
2. The Regional Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Sub-Regional Office No.S-1, TNHB,
Phase – III, Sathuvachari,
Vellore – 632 009
3. The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Sub-Regional Office, No.S-1, TNHB,
Phase – III, Sathuvachari,
Vellore – 632 009
4. The Account Officer,
Employees' Provident Fund Organisation,
Sub-Regional Office, No.S-1, TNHB,
Phase – III, Sathuvachari,
Vellore – 632 009
5. M/s V.K.Abdul Jabbar Sahib Sons,
100 No.Mark Beedi Manufacturing Industry,
Virudhampet, Vellore – 632 006

...Respondents



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Writ Petition is filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records connected with impugned proceedings no.TN/VL/8213-E/568/Accts/Gr.5(1)/5195 dated 11.01.2018 passed by the 3rd respondent and quash the same and further direct the 2nd respondent to sanction monthly pension equal to monthly widow pension, employees provident fund and deposit-linked insurance amount with interest at 12% per annum in accordance with law within a time frame.

For Petitioner : Mr.G.P.Arivuchudar for
M/s Law square

For Respondents : Mr.R.Thiruvavukarasu for R1 to R4
Dr.M.S.Narasimhan for R5

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records connected with impugned proceedings no.TN/VL/8213-E/568/Accts/Gr.5(1)/5195 dated 11.01.2018 passed by the 3rd respondent and quash the same and further direct the 2nd respondent to sanction monthly pension equal to monthly widow pension, employees provident fund and deposit-linked insurance amount with interest at 12% per annum in accordance with law within a time frame.



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2. The brief facts of the case are as follows:-

(i) The petitioner's son late V.Kamalakaran was working as a Beedi Roller at the 5th respondent's Beedi Manufacturing Industry from 01.08.2003 continuously and the petitioner's son was allotted E.P.F. Account no.TB/VLR/8213/E/568 and the subscriptions were regularly paid. Due to the petitioner's chronic ill health on account of Beedi Rolling works, the petitioner was unable to attend the work from 01.11.2007 onwards and the petitioner died on 11.05.2016.

(ii) After the death of petitioner's son, the petitioner, who is the sole dependent [mother] submitted necessary application in Form 10(d) and Form 20 to the 3rd respondent through 5th respondent on 22.03.2017 along with required documents, but the 5th respondent refused to submit form 205(IF) for insurance claim under Employees deposit linked insurance scheme, 1976. The 4th respondent, who is not authority to do so has returned the petitioner's application dated 21.04.2017 seeking some clarification.

(iii) Further, as per 16(1) and 16(5)(aa) of the Employees Pension Scheme, 1995, the petitioner is entitled to receive the dependent pension.



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However, the 3rd respondent simply rejected the legitimate claim of the petitioner, vide letter dated 11.01.2018 stating that dependent father or mother is not eligible for monthly pension and insurance amount and they are only eligible to draw employees provident fund amount only. Therefore, seeking to set aside the said order, the present Writ petition has been filed.

3. The learned counsel for the petitioner would submit that the Hon'ble Apex Court in catena cases held that the Employees Provident Fund and Miscellaneous provisions Act, 1952 and its various schemes have been formulated only for the welfare of the employees and their social security, hence the action of the 3rd and 4th respondents without application of mind becomes null and void and arbitrary.

4. The learned counsel for the petitioner also submits that according to the mandatory provisions of paragraph 26A r/w Paragraph 69 of the Employees Provident Fund Scheme, 1952, the membership of the deceased employee has been retained till now even after his death without any settlement of credit amount to the petitioner and the services were not terminated by the 5th respondent till the date of his death as required under



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the law in force. Hence the petitioner is entitled to draw insurance amount with interest at 12% and as per the mandatory provisions, the petitioner is entitled to receive all the benefits, thereby seeks to set aside the order dated 11.01.2018.

5. Per contra, the learned counsel appearing for the respondents 1 to 4 submits that the petitioner's son was a member of EPF/Pension schemes from 01.08.2003 and he left the service on 1.11.2007 and subsequently died on 11.05.2016. On the date of death of member, his EPF benefits remained unsettled and continued to be a member of the employees pension scheme till the date of death. However a mere continuation of membership alone will not entitle a member to the pension benefits, fulfilment of other statutory requirements like rendering eligible service of 10 years or death while in service, as stipulated by the scheme is mandatory for grant of pension.

6. Lastly, the learned counsel for the respondents 1 to 4 submits that the petitioner has filed the present Petition, under the misconception that her son's continued membership of the pension fund till his last breath would entitle her for grant of monthly pension. As per provisions of the



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Employees pension scheme, 1995, the petitioner is entitled to a one time payment by way of withdrawal benefits and not entitled for monthly pension. Further, the learned counsel also submits that a direction may be issued to the petitioner to file the claim petition in respect of Rs.7,577/- EPS (Pension fund) benefits before the respondent in a prescribed form, thereby seeks to dismiss the present petition.

8. The learned counsel for the 5th respondent submits that the 5th respondent furnished the requisite certificate in respect of the deceased employee to the 1st respondent, as per the application submitted by the petitioner herein. Further, the petitioner neither made any allegations nor claimed any relief against the 5th respondent, thereby submits that the 5th respondent has been impleaded as necessary and formal party without any reliefs sought for. Therefore, pleaded to dismiss the petition in so far as the 5th respondent is concerned.

9. Heard the learned counsels and perused the documents placed on record carefully.

9. At this juncture, the learned counsel for the respondents 1 to 4 has submitted a letter dated 26.06.2023 vide Ref.No.TB/VLR/W.P.17631-2020/Legal/2023 addressed by the 2nd respondent indicating that EPF



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Benefits to the tune of Rs.16,093/- [entire benefits due to the deceased] was settled to the petitioner on 14.05.2019. With regard to EPS (Pension Fund) benefits, since the deceased member had rendered less than 10 years of service, the petitioner is eligible for one-time payment (withdrawal benefit). The quantum of withdrawal benefit calculated as per the available records comes to Rs.7,577/- and the claim in respect of the said amount has not been received.

10. Considering the facts and circumstances of the case and taking note of the fact that a sum of Rs.16,093/-, towards EPF benefits, has already been settled to the petitioner, as early as on 14.05.2019 and claim in respect of EPS benefits (Pension fund) amounting to Rs.7,577/- no claim has been received by the respondents 1 to 4, this Court is inclined to direct the petitioner to submit the claim petition in respect of the EPS benefits (Pension fund) along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order to the respondents 1 to 4 and the said respondents shall consider and disburse the amount with interest at the rate of 4% from 01.8.2003 to 31.10.2007 [in respect of EPS (pension fund) benefits] within a period of two weeks thereafter.



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With the above observation, the present Writ Petition is disposed of.

No costs.

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Index : Yes/No

Internet : Yes/No

Speaking order / non speaking order

ssd

To

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V.BHAVANI SUBBAROYAN, J.,

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