



W.P.No.30086 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.30086 of 2022
and
W.M.P.Nos.295506 & 29507 of 2022

Dhanam Ravi

.... Petitioner

VS

1. The Chairman,
Tamilnadu State Level Scrutiny Committee-III,
Adi Dravidar and Tribal Welfare Department,
Namakkal Kavignar Maligai,
Secretariat, Chennai- 600 009.
2. The Chairman,
Chennai Port Trust,
No.1, Rajaji Salai,
Chennai.
3. The Chief Engineer,
Chennai Port Trust Authority,
No.1, Rajaji salai,
Chennai.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to call for the records of the 1st respondent in its Proceedings No. 20450/CV-5/2007 dated 26.07.2021 and the consequential letter issued by the 3rd respondent in its E1/1269/2018/E dated 05.09.2022 and quash the same and consequently direct the respondents 2 and 3 to settle the Pension, including family pension, Gratuity, Earned Leave Encashment and other admissible pensionary benefits to the petitioner along with arrears.

For Petitioner : Mr.V.Vijay Shankar

For Respondents : Mr.P.Gurunathan
Additional Government Pleader for R1

Mr.M.Palanimuthu for RR2 and 3

ORDER

(Order of the Court was made by N.MALA, J.,)

This Writ Petition is filed challenging the order dated 26.07.2021 of the 1st respondent and the consequential letter issued by the 3rd respondent dated 05.09.2022 and for a consequential direction to the respondents 2 and 3 to settle the pension including family pension etc.

2. The petitioner's husband (late C.V.Ravi) was issued with Scheduled



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Tribe caste certificate in 1978. The petitioner's husband was appointed in Chennai Port Trust in 1980 and he was retired from service on 28.02.2019, on attaining superannuation. In 1999, the RDO Salem initiated verification proceedings on the petitioner's husband certificate, which was challenged by the petitioner in W.P.No.11254 of 1999 before this Court. In the writ petition by order dated 01.07.1999, this Court directed the scrutiny committee committee to take up the verification of the petitioner's husband caste certificate.

3. On the verge of petitioner's husband retirement in October 2018, the Vigilance Cell conducted an enquiry and submitted a report to the State Level Scrutiny Committee in March 2021, which was two years after the petitioner's superannuation. The said report was forwarded to the petitioner's husband by the 1st respondent and a detailed explanation was given by the petitioner's husband on 24.02.2021. However, within two weeks thereafter, the petitioner's husband died due to Covid-19 on 05.05.2021. On 29.06.2021, the petitioner received a notice of enquiry from the 1st respondent to be conducted on 19.07.2021. Thereafter on 19.07.2021, due to the petitioner's husband absence in the enquiry, the 1st respondent passed the impugned order



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cancelling the petitioner's husband's caste certificate. Thereafter, when the petitioner approached the 2nd respondent for settlement of pension, gratuity and other terminal benefits, the same were rejected vide letter dated 05.09.2022 by the 3rd respondent. Aggrieved by the aforesaid orders, the petitioner preferred the above writ petition for the aforesaid relief.

4. The learned counsel for the petitioner submitted that on the date, when the impugned order was passed by the 1st respondent, the petitioner's husband had died and therefore, the order was non-est in law, as it was passed against a dead person. The learned counsel further submitted that in similar cases, the 2nd and 3rd respondents had sanctioned pension and other terminal benefits to the concerned employees families. The counsel therefore prayed that the impugned order had to be set aside and the 2nd and 3rd respondent be directed to settle pension and other benefits to the petitioner.

5. When the matter was taken up for hearing on 13.03.2023, the learned counsel for the petitioner submitted that the petitioner and her children were prepared to file an affidavit of undertaking that they would not claim any benefits on the basis of the community certificate of the petitioner's husband



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and therefore, the respondents may be directed to settle the family pension, gratuity and other benefits to the petitioner.

6. The learned counsel for the respondents have no serious objection to the filing of the affidavit, on condition that, not only the petitioner but also her children would not claim any benefits on the basis of the petitioner's husband community certificate.

7. When the matter was taken up today, the learned counsel for the petitioner produced the affidavit filed by the petitioner and also her children. The relevant portion is as follows:

“3. I respectfully submit that myself viz., the petitioner herein is the wife of Late C.V.Ravi. We have a son by name Varadharaju and a daughter by name Harine. Neither the petitioner herein nor any of my two children have obtained community certificates claiming themselves as belonging to the Scheduled Tribe. The petitioner's son and daughter are employed respectively in private companies and have not claimed or derived any concession or benefit on the ground that they belong to the Scheduled Tribes. The petitioner affirms and submits that neither she or her children will in future also, claim any such benefits. Hence, recording the same petitioner prays that



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appropriate orders may be passed allowing the W.P. and directing the 2nd respondent viz., Chennai Port Trust to settle the Pension, Gratuity and other benefits admissible for the 39 years of service rendered by the petitioner's husband Late C.V.Ravi."

8. In view of the undertaking given in the additional affidavit filed by the petitioner and her children, the Writ Petition is allowed and the respondents 2 and 3 are directed to settle family pension and other terminal benefits to the petitioner within a period of eight (8) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(J.N.B., J.) (N.M., J.)
09.11.2023

vsi/dsn

Index : Yes / No

Internet : Yes / No

Neutral citation : Yes / No

To

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and
N.MALA, J.

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