



W.P.No.32241 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.32241 of 2017 and
W.M.P.No.35506 of 2017**

Kallikudi Karikalan

... Petitioner

Vs.

1. The General Manager - HR,
M/s.Tata Consultancy Services Limited,
No.185, Lloyds Road,
Chennai - 600 086.

2. M.Jayalatha

3. The Controlling Authority,
Under the Payment of Gratuity Act,
Assistant Commissioner of Labour (Central),
No.26, Haddows Road,
Sastri Bhavan,
Chennai - 600 006.

4. The Appellate Authority,
Under the Payment of Gratuity Act,
Deputy Chief Labour Commissioner (Central),
No.26, Haddows Road,
Sastri Bhavan,
Chennai - 600 006.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the entire records pertaining to the order of the fourth respondent dated 27.06.2017 in G.A.No.6 of 2016 confirming the order made in G.A.No.1 of 2016 on the file of the third respondent dated 04.08.2016 and quash the same.

For Petitioner : Mr.E.D.Sethupathi

For Respondents : Mr.R.Sunil Kumar for R1
Mr.R.Rajesh for R2
Mr.P.K.Ganesh
Central Government Standing
Counsel for R3&R4

O R D E R

The Writ Petition has been filed to call for the entire records pertaining to the order of the fourth respondent dated 27.06.2017 in G.A.No.6 of 2016 confirming the order made in G.A.No.1 of 2016 on the file of the third respondent dated 04.08.2016 and quash the same.

2. The petitioner is the father of the deceased employee one Kaveriselvan who was working with the first respondent / TATA Consultancy



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Services Limited. The second respondent is the wife of the deceased employee who had filed H.M.O.P.No.490 of 2013 seeking resolution of marriage. In the meanwhile, the said Kaveriselvan died on 10.09.2014. The petitioner filed a civil case in O.S.No.1065 of 2014 before the learned Principal District Munsif, Alandur for issuance of Legal Heir Certificate which was dismissed on 19.08.2015. Pursuant to which, the petitioner filed restoration of O.S.No.1065 of 2014 and the same is pending. The petitioner also filed O.S.No.279 of 2015 before the learned Principal District Munsif, Alandur for bare injunction restraining the second respondent herein not to disturb his peaceful possession of the flat owned by his deceased son Kaveriselvan. The second respondent herein also filed succession OP No.136 of 2016 before this Court for grant of succession certificate for the gratuity amount payable to the deceased employee. The first respondent / employer also filed G.A.No.1 of 2016 narrating all the facts and the pending cases before various Courts. After hearing the arguments of both sides, the third respondent / Assistant Commissioner of Labour (Central) issued a direction to the first respondent to release an amount to the tune of Rs.6,56,000/- to



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the second respondent, i.e., wife of the deceased employee. Aggrieved by the said order of the third respondent, the petitioner preferred an appeal in G.A.No.6 of 2016 before the fourth respondent. However, the fourth respondent confirmed the order passed by the third respondent and dismissed the appeal in G.A.No.6 of 2016. Further, the third respondent, by his proceedings dated 13.11.2017 issued a sanction order to release the gratuity amount of Rs.6,56,000/- in favour of the second respondent. Aggrieved by the said order passed by the fourth respondent, the petitioner has approached this Court by filing the present Writ Petition.

3. I have considered the said submissions made by the learned counsel appearing for the parties and perused the materials placed before this Court.

4. Admittedly there was a divorce case pending before the Family Court, Chennai in H.M.O.P.No.490 of 2013 and the same was withdrawn after the death of her husband, i.e., deceased employee. That apart, the civil



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case is filed by the petitioner before the learned Principal District Munsif, Alandur in O.S.No.1065 of 2014 for issuance of Legal Heir Certificate and the same is also pending. When the matter stood thus, the petitioner herein filed G.A.No.6 of 2016 before the fourth respondent challenging the order dated 04.08.2016 passed by the third respondent wherein the third respondent had directed the first respondent to release the gratuity amount of Rs.6,56,000/- in favour of the second respondent. However, the fourth respondent confirmed the order passed by the third respondent and dismissed the appeal in G.A.No.6 of 2016.

5. On a perusal of the order passed by the fourth respondent, it is clear that the authority had gone into the details of the averments and the counter averments made by the petitioner as well as the second respondent and has come to a categorical conclusion that, the deceased employee had nominated only his wife, ie., second respondent as a nominee to receive the benefits payable to him. Under the Payment of Gratuity Act, 1972, Section 4(1)(c) clearly emerges that, in the case of death of the employee, gratuity



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payable to him shall be to pay is nominee or, if no nomination has been made to his legal heirs. In the present case, the deceased employee had clearly nominated his wife, i.e., second respondent as nominee to receive the gratuity and all other benefits. Therefore, the fourth respondent was right in holding that the second respondent has legal right to claim gratuity under Rule 7 of the Payment of Gratuity (Central) Rules, 1972. It is also seen that, there is a minor son, namely, K.Vikram born out of their wedlock, therefore, this Court is of the view that the remaining terminal benefits whatever is payable to the deceased employee shall be kept in an interest bearing fixed deposit in the name of the minor son under the guardianship of the second respondent and the same shall be accrued for the minor son after attaining majority. This arrangement is not controverted by the second respondent herein as well as the petitioner. However, the petitioner is at liberty to workout his remedy before the Civil Court wherein the other matters are pending.



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6. Accordingly, this Writ Petition is disposed of in the above terms.

No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji

To

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Chennai - 600 086.
2. The Controlling Authority,
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