



W.P.(MD)No.18788 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.18788 of 2013

T.Neelambigai

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2. The Director,
Local Fund Audit, (Panchayat Union Pension),
Kuralagam, Chennai – 108.

3. The Panchayat Union Commissioner,
Panchayat Union,
Mahibalan patti,
Thiruppathur Taluk,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Mandamus*, directing the 2nd and 3rd respondents to disburse the retirement benefits of Late Marimuthammal (School conductress Thiruppathur Panchayat Union, Mahibalan Patti, Sivagangai) to the petitioner, in the light of the order of the 2nd respondent, dated 24.04.2008, within the time stipulated by this Court.



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For Petitioner : M/s.K.P.Krishnadoss

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

This writ petition is filed for *Writ of Mandamus*, directing the respondents to disburse the retirement benefits of Late.Marimuthammal to the petitioner, in the light of the order passed by the 2nd respondent, dated 24.04.2008.

2. The petitioner is sister's daughter of the deceased employee of Late.Marimuthammal. The said Late.Marimuthammal was selected for the post of Conductress and served 20 years of service and attained superannuation on 31.07.1995, subsequently, he died on 24.08.2005.

3. The deceased Government employee Late.Marimuthammal has submitted nomination for incorporating the petitioner's name. The petitioner is the sister's daughter of the deceased Government employee of Late.Marimuthammal. The respondents have declined to disburse the amount to the petitioner, since as



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per Rule 48(1) and Rule 45(5) of the Tamil Nadu Pension Rules, if there is any family members as described in the said Pension Rules, then the family member will be entitled to the terminal benefits. ***The Tamil Nadu Pension Rules 48 states as under:***

“48. Nomination.-

(1) A Government servant shall make a nomination in Form 1 or Form 2, as may be as appropriate in the circumstances of the case conferring on one or more persons the right to receive the Death-cum-Retirement Gratuity payable under rule 45:

Provided that, if at the time of making the nomination-

(i) the Government servant has a family, the nomination shall not be in favour of any person or persons other than the members of his family.

(ii) the Government servant has no family the nomination may be made in favour of a person or persons, or a body of individuals, whether incorporated or not.

(2) If a Government servant nominated more than one person under sub-rule (1), he shall specify in the nomination the amount of share payable to each of the nominees in such a manner as to cover the entire amount of gratuity.

(3) A Government servant may provide in the nomination. -

(i) that in respect of any specified nominee who predeceases the Government servant, or who dies after the death of the Government servant but before receiving the payment of gratuity, the right conferred on that nominee shall pass to such other person as may be specified in the nomination:



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Provided that if at the time of making the nomination the Government servant has a family consisting of more than one member, the person so specified shall not be a person other than a member of his family.

Provided further that where a Government servant has only one member, in his family and a nomination has been made in his favour, it is open to the Government servant to nominate alternate nominee or nominees in favour of any person or a body of individual whether incorporated or not;

(ii) that the nomination shall become invalid in the event of the happening of the contingency provided therein.

(4) The nomination made by a Government servant who has no family at the time of making it, or the nomination made by a Government servant under the second proviso to clause (i) of sub rule (3) where he has only one member in his family shall become invalid in the event of the Government servant subsequently acquiring a family, or an additional member in the family, as the case may be.

(5) A Government servant may, at any time cancel a nomination by sending a notice in writing to the authority mentioned in sub-rule (7):

Provided that he shall, along with such notice, send a fresh nomination made in accordance with this rule.

(6) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under clause (i) of sub-rule (3) or the occurrence of any event by reason or which the nomination, becomes invalid in pursuance of clause (ii) of that sub-rule, the Government servant shall send to the authority mentioned in sub-rule,

(7) a notice in writing cancelling the nomination together with a fresh nomination made in accordance with this rules.

(7) [(a) Every nomination made (including every notice of cancellation, if any, given) by a self-drawing Government servant under this rule shall be sent -



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(i) in case the Government servant is a permanent self-drawing Government servant other than a self-drawing Government servant referred to in sub-rule (1) of rule 54 to the Audit Officer concerned and

(ii) in any other case, including that of a self-drawing Government servant referred to in sub-rule (1) of rule 54 to the Head of Office.]

(b) The Audit Officer or the Head of Office, as the case may be shall, immediately on receipt of the nomination referred to in clause (a), countersign it indicating the date of receipt and keep it under his custody.

(c) (i) The Head of Office may authorize his subordinate [self-drawing Government servants] to countersign the nomination forms of [non-self drawing Government servants].

(ii) Suitable entry regarding receipt of nomination shall be made in the service book of the non-self drawing Government servants,

(8) Every nomination made, and every notice of cancellation given, by a Government servant shall, to the extent that it is valid, take effect from the date on which it is received by the authority mentioned in sub rule (7).

4. The respondents have referred only Rule 48(1) and denied the benefits. But, Rule 48(1)(2) has categorically held that if there is no family, the nomination ought to be accepted, even though, the nominated person is not a family member. In the present writ petition, the petitioner is daughter of the deceased Government employee's sister. Therefore, the reasons cited by the respondents is incorrect and erroneous. Therefore, the petitioner is entitled for the retirement benefits of the deceased Government employee Late.Marimuthammal.



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5. Accordingly, the respondents are directed to disburse terminal benefits to the petitioner, within a period of eight weeks, from the date of receipt of a copy of the order. The petitioner is entitled interest only to the arrear payment, as per statutory provisions applicable.

6. With the above said direction and observation, the writ petition is allowed. No costs.

Index : Yes / No
Internet : Yes
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To

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2. The Director,
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3. The Panchayat Union Commissioner,



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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 18788 of 2013**

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