



W.P(MD)No.5241 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5241 of 2023

and

W.M.P.(MD)Nos.4934 & 4935 of 2023

1.Muthuvel

2.Kanthashree Minor

Represented through her nature guardian and mother

Tmt.M.Thirumani Selvi,

W/o.Masanam,

D.No.3/802-78, Ganesh Nagar,

Pudukkottai,

Tuticorin District.

... Petitioners

Vs.

1.The Chief in internal audit officer,

Board Office Audit Branch,

N.P.K.R.R.Maalgai,

TANGEDCO,

144, Anna Salai,

Chennai.

2.The Superintendent Engineer,

TANGEDCO,

Tuticorin Electricity Distribution Circle,

Tuticorin.

3.T.Malliga

... Respondents



W.P(MD)No.5241 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to disburse the death-cum-retirement benefits to the petitioner based on the representation dated 09.11.2022 insofar as death-cum-retirement benefits and family pension concerned without any further delay within a reasonable time to be stipulated by this Court.

For Petitioners : Mr.A.Joseph Jerry

For Respondents : Mrs.M.Parameswari
Standing Counsel for R1 & R2

: No appearance for R3

ORDER

Heard the learned counsel appearing for the writ petitioners and the learned standing counsel appearing for R1 & R2. Though the third respondent has been served and her name is printed in the cause list, she has not chosen to enter appearance.

2. The basic facts are simple:-

One Masanam was employed in Tuticorin Thermal Power Plant as foreman first grade. That the petitioners are his children is also not in doubt. Masanam passed away on 12.09.2018. The jurisdictional Thasildar had issued the legal heir certificate on 09.10.2018 stating that the petitioners and their



W.P(MD)No.5241 of 2023

mother Thirumani Selvi are the legal heirs of Masanam. However, the terminal benefits were not disbursed to the petitioners, since TANGEDCO was issued with legal notice sent on behalf of one Malliga. The said Malliga had since filed O.S.No.60 of 2022 on the file of the District Munsif Court, Tuticorin seeking declaration that she as well as the writ petitioners herein are the legal heirs of the deceased Masanam. In other words, according to the said Malliga, she is the legally wedded wife and not Thirumani Selvi. Malliga accepts the status of the petitioners herein as legal heirs of the deceased Masanam. TANGEDCO is shown as 6th defendant in the said suit. When Malliga herself has not challenged the legal status of the petitioners, I fail to understand as to why TANGEDCO should not have disbursed atleast the petitioner's share.

3. I therefore direct the respondents 1 & 2 to disburse 2/3rd share of the petitioners herein. The first petitioner has attained majority and 1/3rd of the terminal benefits will be disbursed to him. Since Kandhashree is a minor, TANGEDCO shall deposit her 1/3rd share in a fixed deposit for a period of four years in a nationalised bank. Thirumani Selvi can withdraw the accrued interest once in three months. It is open to Kandhashree to withdraw the fixed deposit to be credited by TANGEDCO on the expiry of four years. The remaining 1/3rd share shall be kept in fixed deposit and disbursement of the said 1/3rd share will



W.P(MD)No.5241 of 2023

depend upon to the outcome of O.S.No.60 of 2022. If the jurisdictional Civil Court declares that Malliga is the legally wedded wife, then, the remaining 1/3rd share would go to Malliga along with the accrued interest. If O.S.No.60 of 2022 is dismissed, then, obviously, Thirumani Selvi / 1st defendant in the suit will take the remaining 1/3rd. Disbursement and creation of deposit as directed now will be made within a period of twelve weeks from the date of receipt of a copy of this order. The Principal District Munsif, Tuticorin is directed to dispose of O.S.No.60 of 2022 on merits and in accordance with law within a period of nine months.

4. The Writ Petition is disposed of . No costs. Consequently, connected miscellaneous petitions are closed.

31.03.2023

Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.5241 of 2023

G.R.SWAMINATHAN, J.

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W.P(MD)No.5241 of 2023

31.03.2023