



WP(MD)No.7078 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M. DHANDAPANI

W.P.(MD)No.7078 of 2020

Selvi S.Nagarathinam

... Petitioner

Vs.

1) The Internal Audit Officer,
Audit Branch, N.P.K.R.R.Maaligai,
No.144, Anna Salai,
Chennai – 600 002.

2) The Chief Engineer (Personal),
TANGEDCO,
No.144, Anna Salai,
Chennai – 600 002.

3) The Additional Chief Engineer,
(General Circle),
TANGEDCO,
Maharaja Nagar,
Tirunelveli – 11.

4) The Superintending Engineer,
(General Circle),
TANGEDCO,
Maharaja Nagar,
Tirunelveli – 11.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order made in Lr.No.018791/153/F15/F153/Ex-E2318/2018, dated 31.07.2018 on the file of the 1st respondent, consequential order of the 2nd respondent herein made in Se.Mu.Aa.No. 010543/501A/Ni.Bi.2/Ni.O.4/Go.Ka.Tho./2019 dated 03.11.2019 and to quash the same as illegal, arbitrary and unsustainable in law and consequently, direct the respondents herein to grant ex-gratia payment to the petitioner with effect from 28.08.2016 within a time stipulated by this Court.

For Petitioner : Mr.M.Thirunavukkarasu
For Respondents : Mrs.M.Parameswari

ORDER

This writ petition has been filed challenging the impugned order passed by the first respondent, dated 31.07.2018 and the consequential order of the second respondent dated 03.11.2019 and to quash the same and consequently direct the respondents to grant ex-gratia payment to the petitioner with effect from 28.08.2016, within a time stipulated by this Court.



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2. The case of the petitioner is that her father was employed under the control of the fourth respondent and died on 25.07.1974, during the course of employment. Thereafter, the mother of the petitioner received ex-gratia pension from the respondent Board. While so, her mother also died on 20.08.2016. The petitioner is the unmarried daughter of Late A.Sankaralingam and S.Muthammal. The respondent Board has issued certain guidelines in respect of the payment of ex-gratia amount to the family of the deceased employee vide (Per) B.P.(Ch)No.151, dated 03.07.1993, wherein, it has been stated that the ex-gratia payment shall also be paid to the widow/widowers or dependent children of the Contributory Provident Fund/Non Pensionable establishment beneficiaries of State Government and the former District Board who died while in service prior to 01.07.1986 with effect from 31.12.1990. After the death of her mother, she is the only surviving unmarried daughter applied for grant of ex-gratia payment on 23.11.2017 to the fourth respondent. Thereafter, on 16.04.2018, the fourth respondent has accorded sanction for receipt of ex-gratia payment and sent the same to



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the first respondent for further action. But the first respondent has directed the fourth respondent to cancel the sanction order issued in favour of the petitioner. Following the same, the third respondent by proceedings dated 03.11.2019, cancelled the sanction order. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner's father passed away in the year 1974. Thereafter, her mother received ex-gratia payment till her death ie., on 20.08.2016. Thereafter, the petitioner has made an application seeking ex-gratia payment and the fourth respondent has also accorded sanction. Subsequently, the same was cancelled, which is not sustainable one. As per the Board proceedings and as per G.O.(Ms).No.1392, Finance (Pen) Department, dated 31.12.1990, the ex-gratia payment shall also be paid to the widow/widowers or dependent children of the Contributory Provident Fund/Non Pensionable establishment beneficiaries of State Government and the former District Board who died while in service prior to 01.07.1986 with effect from 31.12.1990. In this regard, the



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respondent Board has also issued fresh (Per).B.P.No.15, dated 18.02.2006, wherein it has been stated that the unmarried children of the deceased employees are entitled to receive ex-gratia payment provided the deceased employee should have retired prior to 01.07.1986. Hence, the petitioner is entitled to receive the ex-gratia payment and he prayed for appropriate orders.

4. Per contra, the learned counsel appearing for the respondents would submit that as per the (Per) B.P.(Ch) No.151 (SB), dated 03.07.1993, unmarried daughters up to the age of 25 years alone are eligible for ex-gratia payment. But, in the present case, the petitioner has applied for ex-gratia pension at the age of 50 years. Based on that ground, the first respondent has rejected the petitioner's claim. Hence, the writ petition is liable to be dismissed.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.



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6. The facts in the present case are not in dispute. The petitioner's father had worked as RWE staff in Civil Section /Periyar Power House of erstwhile TNEB and got expired on 25.07.1974, while in service. The ex-gratia pension was paid to the wife of the deceased Tmt.S.Muthammal and she also expired on 20.03.2016. The petitioner is the unmarried daughter, aged about 50 years and she has made an application in the year 2017. Pursuant to which, the ex-gratia payment was granted in favour of the petitioner on 16.04.2018. However, the first respondent has made an objection for issuance of ex-gratia payment in favour of the petitioner, vide letter dated 31.07.2018 and directed the third respondent to cancel the sanction order issued in favour of the petitioner. A perusal of the guidelines issued vide (Per) B.P.(Ch) No.151 (SB), dated 03.07.1993, made it clear that unmarried daughters up to the age of 25 years or till their marriage or gainfully employed whichever is earlier alone are eligible for ex-gratia payment. In the present case, already the petitioner has crossed the age of 25 years. Though she is unmarried, once she crossed the age of 25 years, she is not entitled to get the ex-gratia



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payment. Hence, the claim made by the petitioner is not sustainable one.

Accordingly, this Writ Petition is dismissed. No costs.

10.01.2023

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

akv

To

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