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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8213 of 2023

E.Pitchammal ... Petitioner

Vs.

1. The Principal Secretary,
   Rep. by Tamil Nadu State Revenue Department,
   Secretariat,
   Chennai – 600 009.

2. The Principal Accountant General A & E Tamilnadu,
   No.361, Anna Salai,
   Chennai – 600 018.

3. The Commissioner of Revenue Administration,
   Revenue and Disaster Management Department,
   Ezhilagam, Chennai – 600 005.

4. The District Collector,
   Tirunelveli District,
   Tirunelveli – 627 009.

5. The Sub Collector,
   Sub Collector's Office,
   Cheranmahadevi,
   Tirunelveli – 627 414. ... Respondents

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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 4th and 5th respondents to send the family pension proposal of the deceased employee P.Esakki to the 2nd respondent and consequently direct to the 2nd respondent to disburse the deceased employee P.Esakki's arrears of pension w.e.f. 31.05.2022 with 12% interest, death benefits and to sanction the family pension to the petitioner and to grant such other relief as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.J.John

For Respondents : Mr.T.Villavankothai,
Additional Government Pleader.

* * *

O R D E R

Heard the learned counsel on either side.

2. The petitioner wants this Court to direct respondents 4 and 5 to send the family pension proposal in respect of her deceased husband to the second respondent. The petitioner wants the pensionary arrears also to be cleared along with other terminal benefits.

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3. As rightly pointed out by the learned counsel appearing for the respondents, the writ petition is not maintainable. The petitioner' husband was working as Office Assistant in Taluk Office, Ambasamuthiram. He was removed from service. Challenging the same, the petitioner's husband filed O.A.No.2927 of 2001 before the Tamil Nadu Administrative Tribunal. The Tribunal granted interim order. However, when he reached the age of superannuation on 31.05.2002, he was not allowed to retire. Since the Tribunal was abolished, the O.A. was transferred and renumbered as W.P.No.37954 of 2005. The writ petition was dismissed on 27.06.2011. Challenging the same, Esakki filed W.A.No.327 of 2012. The writ appeal was disposed of on 12.03.2012 with liberty to Esakki to file an appeal challenging the order of removal. The appeal filed by Esakki was dismissed by the Commissioner of Revenue Administration vide order dated 19.02.2015. Challenging the same, Esakki filed review petition. During the pendency of the review, Esakki passed away on 16.07.2019.

4. It is true that Esakki was employed in Taluk Office, Ambasamuthram. When he reached the age of superranuation, he was not allowed to retire. Since he was given reinstatement after the removal of

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service only, pursuant to the interim order granted by the Tribunal, Esakki had to necessarily abide by the final outcome of the litigation. The said O.A was transferred and renumbered as W.P.No.37954 of 2005. The writ petition was dismissed. As rightly noted, Esakki filed an appeal and the same was also dismissed. Therefore, as on date the order of removal is holding good. If the petitioner succeeds in getting the removal order set aside in the review, the relief now sought for in the writ petition can be granted. Since Easkki had passed away, the petitioner can very well step into her husband's shoes. The petitioner is permitted to file an application before the first respondent and she can very well prosecute the review filed by her deceased husband. In the event of the petitioner succeeding in the review, it is open to the petitioner to file a fresh writ petition on the cause of action on which the present writ petition has been filed. This writ petition stands disposed of. No costs.

01.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
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G.R.SWAMINATHAN,J.

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