



W.P(MD) No.8797 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No. 8797 of 2019

S.Ramasamy

: Petitioner

..Vs..

- 1.The Chief Engineer,
Public Works Department,
St.George Fort,
Chennai-600 006.
- 2.The Executive Engineer,
Public Work Department,
Water Resource Organization,
Thamiraparani Basin Division,
Palayamkottai, Tirunelveli District.
- 3.The Assistant Executive Engineer,
Public Work Department,
Water Resource Organization,
Mel Thamiraparani Basin Sub-Division,
Cheranmahadevi, Tirunelveli District.
- 4.Subulakshmi
- 5.Mariyappan
- 6.Shankar
- 7.R.Sattanathan

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to
issue an order or direction more particularly in the nature of WRIT OF



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CERTIORARIFIED MANDAMUS, to call for the record of the 3rd respondent's impugned Communication in Letter No.178/2019/Ko28 dated 06.03.2019 and to quash the same consequentially, to direct the respondent nos.1 to 3 to provide all service benefits to the petitioner for the death of his step-father Mr.R.Brahmanayagam, son of Ramasamy Mooppanar died on 29.01.2019, worked as a Work Inspector under the 3rd respondent based on his registered Will dated 30.01.2015 in Doc.No.4/2015, by considering his representation, dated 13.03.2019, within the period stipulated by this Court.

For Petitioner	:	Mr.A.Haja Mohideen
For R1 to 3	:	Mr.R.Suresh Kumar
		Additional Government Pleader

ORDER

The writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned Communication, dated 06.03.2019 of the 3rd respondent and to direct the respondents 1 to 3 to provide all service benefits to the petitioner for the death of his step-father Mr. R. Brahmanayagam, son of Ramasamy Mooppanar died on 29.01.2019, worked as a Work Inspector under the 3rd respondent based on his registered Will dated 30.01.2015 in Doc.No.4/2015, by considering his representation, dated 13.03.2019, within the period stipulated by this Court.



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2. The petitioner was born on 16.06.1993 to one Sattanathan.

The said Sattanathan is having brothers and sisters namely Subbulakshmi, Brahmanayagam, Mariyappan and Shankar. Except Brahmanayagam, all the other persons have settled in their family life. They are arrayed as respondents 4 to 7. The said Brahmanayagam remained as bachelor.

3. The contention of the petitioner is that the said Brahmanayagam treated the petitioner as his son and taken care of all his needs of education, food, etc., and showered love and lot of affection on him. Hence, said Brahmanayagam executed a Will dated 30.01.2015, registered Registration No.4/2015. In the said Will, the said Brahmanayagam has explicitly stated that the petitioner has taken care of him and therefore, he is entitled and eligible to receive all the benefits that the said Brahmanayagam is entitled to including Government benefits as well. Subsequently, the said Brahmanayagam died on 29.01.2019 and the petitioner performed his last rites.

4. The further contention of the petitioner is that his biological father Sattanathan is working as a Collie, his sister is studying B.A. and his



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mother is a homemaker. The petitioner is jobless and was depending on the said Brahmanayagam for financial assistance. Since the petitioner was declared as successor in the last Will, the petitioner is before this Court seeking to direct the respondents to pay all the terminal benefits to the petitioner based on the Will and also based on the petitioner's representation.

5. The 3rd respondent has filed a counter affidavit stating that even though the petitioner is claiming that he is the adopted son of the deceased Government employee Brahmanayagam there is no deed executed to confer the status of adopted son. The deceased employee has not nominated the petitioner in the service records. The deceased employee has not declared before the respondent employer that the petitioner is the adopted son of the employee. Moreover, the petitioner has already filed a suit in O.S.No.219 of 2019 to declare him as the legal heir of the deceased employee and the same was dismissed by the Principal District Munsif Court, Ambasamudram, on 28.02.2023. In G.O.Ms.No. 2899, Labour and Employment Department, dated 23.12.1988, it has been



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stated that any legal heir of the deceased employee would be entitled to compassionate appointment, if there is any adopted son or daughter claiming any compassionate appointment, it should be based on certain conditions and also it should be based on the registered adoption deed, then only they can make the claim. Therefore, the 3rd respondent submitted that the petitioner is not entitled to.

6.Heard Mr.A.Haja Mohideen, learned Counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader appearing for the respondents 1 to 3 and perused the records.

7. It is seen from the records that the petitioner has rightly approached the Civil Court to declare himself as legal of the deceased employee Brahmanayagam. However, the petitioner has lost the suit and the petitioner had not preferred any appeal, hence the judgment has attained finality. Now, the petitioner is claiming to receive the terminal benefits of the deceased Brahmanayagam, based on the same Will, which the Civil Court has dismissed in the said suit. When the petitioner had



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failed to prove the Will before the Civil Court, therefore, relying on the same Will, the benefits cannot be conferred.

8. The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the sisters and brother of the deceased Brahmanayagam are the second clause legal heirs and they have already submitted their objections to the respondents.

9. For the reasons stated supra, the claim of the petitioner cannot be entertained. Hence, the writ petition is dismissed. No costs.

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Index: Yes/No
Internet: Yes/No
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S. SRIMATHY, J.,

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