



W.P.(MD).No.18878 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.18878 of 2023

Bhagawathi Ammal

... Petitioner

Vs

1. The Assistant Director,
Local Fund Audit,
4th Floor, Combined Building,
Nandhanam, Chennai - 600 035.
2. The Commissioner,
Madurai Corporation,
Madurai.
3. The Assistant Commissioner (Accounts),
Madurai Corporation, Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, direction to the first respondent to grant family pension on account of death of petitioner's husband by considering the petitioner's representation, dated 26.06.2023 within the time frame that may be stipulated by this Court.



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For Petitioner : Mr.A.Robinson

For Respondent : Mr.P.Thambidurai (R1)
Government Advocate

Mr.S.Vinayak (R2, R3)
Standing Counsel

ORDER

The present writ petition has been filed seeking a direction to the first respondent to grant family pension on account of death of petitioner's husband by considering the petitioner's representation, dated 26.06.2023 within the time frame that may be stipulated by this Court.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.Heard, Mr.A.Robinson, learned counsel appearing for the petitioner, Mr.P.Thambidurai, learned Government Advocate appearing for the first respondent and Mr.S.Vinayak, learned Standing Counsel appearing for the respondents 2 & 3. Perused the materials on record.



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4.(i).The petitioner's husband was working as a Sanitary worker at Avaniapuram Town Panchayat, Madurai and had voluntarily retired from service on 31.01.2002 and thereafter, vide proceedings, dated 11.09.2003 his terminal benefits and pension were disbursed. While her husband was receiving the pensionary benefits, he passed away on 14.08.2007. He was survived by the petitioner and three children.

(ii) Pursuant to the death of her husband, the petitioner made a representation before the first respondent, seeking family pension as early in the year 2020. On receipt of the same, the first respondent vide proceedings, dated 20.02.2020 sent a communication to the petitioner to make an application before the second respondent for family pension. Accordingly, the petitioner made an application before the first and second respondents once again on 14.07.2021 and the same is pending before the Authorities without consideration. Hence, the writ petition came to be filed.

5.The learned counsel for the second and third respondents submitted that the petitioner's husband retired from service at Avaniapuram, Madurai and the said Panchayat came to be amalgamated into Madurai Municipality only in the year 2011. Prior to the amalgamation, the petitioner's



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husband retired from service on 31.01.2002. Therefore, the pensionary benefits has to be sanctioned only by the first respondent.

6.However, the petitioner brought to the notice of this Court that the second respondent has already intimated her that the service records of her husband has not been received from Avaniapuram Town Panchayat.

7.This Court fully dissatisfied with the submissions made by both the learned counsels appearing for the respondents that they did not have the papers pertaining to the pensionary benefits of the petitioner's husband and the stand of the second respondent that necessary records have not been received from Avaniapuram Town Panchayat so far. It is pertinent to mention that till 14.08.2007, ie., till the death of petitioner's husband, the first respondent was paying the pensionary benefits to him. Now, the first respondent could not evade the responsibility of releasing the pensionary benefits to the petitioner.

8. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders



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in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

9. Therefore, this Court direct the first respondent to consider the petitioner's representation, dated 14.07.2021 and 26.06.2023 and grant family pension to the petitioner within a period of eight (8) weeks, from the date of receipt of a copy of this order.

10. Accordingly, this writ petition stands disposed of. There shall be no order as to costs.

24.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM



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L.VICTORIA GOWRI, J.

PNM

**ORDER IN
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