



W.P.(MD).No.19773 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.19773 of 2023

and

W.M.P(MD)No.16324 of 2023

1.Minor.G.U.Nimal

2.Minor.G.U.Nikkil

(Through their legal guardian U.Bagyalakshmi)

... Petitioners

Vs.

1.The Directorate of Town Panchayat,
Campus of Town Panchayat,
Raja Annamalaipuram,
Chennai-28.

2.The District Collector,
Collector Office,
Nagercoil,
Kanyakumari District.

3.The Assistant Director,
Directorate of Town Panchayat,
Collectorate, Nagercoil,
Kanyakumari District.

4.The District Treasury Officer,
Collectorate,
Nagercoil, Kanyakumari District.



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5. The Executive Officer,
Killiyur Town Panchayat,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to sanction the share of the family pension to the petitioners of the deceased father worked as Executive Officer, Killiyoor Town Panchayat, Kanyakumari District on the basis of the petitioner's representation dated 19.03.2023 within a time frame fixed by this Court.

For Petitioner	: Mr.G.K.Chitra Devi
For R1 – R4	: Mr.N.Muthu Vijayan Special Government Pleader
For R5	: Mr.A.K.Manickam

ORDER

The present writ petition has been filed seeking direction to the respondents to sanction the share of the family pension to the petitioners of the deceased father worked as Executive Officer, Killiyoor Town Panchayat, Kanyakumari District on the basis of the petitioner's representation dated 19.03.2023 within a time frame fixed by this Court.



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2. The petitioner's father, namely Umakanthan was working as an Executive Officer at Sholavandhan Town Panchayat from 01.12.2008. While in service, he died on 05.04.2020. The petitioner is the son of the said Umakanthan. The petitioner's father was survived by his first wife, her children, namely Ruban & Rubini and the petitioner and his brother. Though the petitioner and his brother are illegitimate children of the deceased, they are entitled to the respective share in the terminal benefits of the said deceased employee. However, the petitioner's mother being the 2nd wife, she is not entitled to any share whatsoever in the terminal benefits belonging to the deceased employee.

3. In the meanwhile, the first wife one U.Sandhya filed writ petition in W.P(MD)No.15233 of 2023 before this Court suppressing the existence of the petitioner, his brother and his mother. The said writ petition was disposed of directing the respondents to disburse the terminal benefits within a period of 5 months from the date of the said order.

4. Anticipating that the petitioners may be left out with respect to their respective shares in the terminal benefits of their father, this writ petition came to be filed.



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5. This Court in a similar case in W.P(MD)No.15233 of 2023 vide order, dated 26.06.2023 has held that the children born through the 2nd wife is also be entitled to a share in the terminal benefits of the deceased employee. However, the pension has to be given only to the legally wedded spouse. Hence, this Court directs the respondents to bear the legal position in mind and prepare the pension proposals accordingly within a period of four (4) weeks from the date of receipt of a copy of this order. The respondents are directed to take necessary steps to issue the terminal benefits equally to all the survived legal heirs including the petitioner and his brother after giving notice to all stakeholders and opportunity of hearing to the respective rival claimants as well. The entire exercise shall be completed within a period of five (5) months from the date of receipt of a copy of this order.

6. With the above said observations, this writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

16.08.2023

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

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L.VICTORIA GOWRI, J.

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