



W.P.(MD)No.17304 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.17304 of 2017

Valli

... Petitioner

Vs.

1. The Director,
Directorate of Local Body Finance Audit,
Kuralagam 4th Floor,
Chennai – 600 108.

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

3. The Assistant Director,
Local Body Finance Audit,
Kanyakumari District at Nagercoil.

4. The Executive Officer,
Aathoor Town Panchayat,
Aathoor Village & Post,
Kalkulam Taluk,
Kanyakumari District.

5. Murugesan alias Murugan

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, to call for the records pertaining to the impugned order issued by the 1st Respondent in Na.Ka.No.019989/Pae.O.Cha.(2)/2015 dated 13.07.2015 and quash the same on the ground that the same is arbitrary, illegal and in violation of the Principles of Natural Justice and consequently directing the Respondents 1 and 4 herein to disburse death cum retirement benefits of the Petitioner's husband Mr.Krishnan (Late) and family pension and all other service benefits together with interest at the rate of 12% per annum from the date of due on the said amount to the petitioner.

For Petitioner : Mr.S.Louis

For R-1 to R-3 : Mr.R.SureshKumar,
Additional Government Pleader

For R-4 : No appearance

ORDER

This writ petition is filed challenging the impugned order, dated 13.07.2015, with consequential direction to the respondent Nos.1 to 4 to disburse the death cum retirement benefits of the Petitioner's husband, namely Krishnan and family pension with interest.



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2. Heard Mr.S.Louis, learned counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader appearing for the respondent Nos.1 to 4. Perused the material documents available on record.

3. The contention of the petitioner is that she is the wife of the deceased employee namely, Mr.Krishnan, son of Neelan, who had worked as Sweeper in Atoor Town Panchayat, from 05.07.1965. While he was in service, he died on 13.05.2000 after completion of 34 years of service, leaving behind the petitioner and her six children.

4. The further contention of the petitioner is that one Kamalam, wife of Ramaswamy has filed a petition in S.O.P.No.3 of 2001 before the Principal Subordinate Court, Padmanabhapuram, claiming that she is the wife of the deceased employee Krishnan and the 5th respondent herein is a adopted son of the deceased Krishnan. The further contention of the petitioner is that the 5th respondent is the son of the said Kamalam, born out of the wedlock of Kamalam and one Ramaswamy and hence, the claim of the said Kamalam cannot be sustained in law. Moreover, the said Succession Original Petition was dismissed.



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In the said Succession Original Petition, the petitioner has entered appearance and filed counter stating that the said Kamalam is wife of one Ramaswamy and the 5th respondent was born out of the wedlock of Kamalam and Ramaswamy and in support of her contention she has also produced all necessary documents. After that, the said Kamalam did not conduct the case properly and has left the case for dismissal, subsequently, the Succession Original Petition was dismissed on 11.12.2002. Even though, the said Kamalam had filed a petition for restoration the same was dismissed on 05.11.2003.

5. The petitioner Valli has also filed a petition in S.O.P.No.31 of 2009 in Subordinate Court, Padmanabhapuram and the same was allowed and the succession certificate, dated 11.11.2010 was issued stating that the petitioner and her children are Legal heirs of the deceased Krishnan. In spite of the same, the respondents have failed to disburse the retirement benefits and other benefits to the petitioner.

6. The respondents have declined the claim of the petitioner through the impugned order. The respondents have disputed the marriage between the



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petitioner and the deceased Krishnan. In the impugned order, the respondents have stated that the petitioner Valli is second wife, however the claim of the petitioner is that she is first wife, rather the only wife of the deceased Krishnan. In the Succession Original Petition, the Court below has ascertained the marriage between the petitioner and the deceased Krishnan, thereafter only the succession certificate, dated 11.11.2010 was issued. The learned counsel appearing for the petitioner relied on the documents filed by the said Kamalam in her Succession Original Petition. In the Kamalam's ration card, the said Krishnan name was not found. In the said ration card, only Kamalam and others are shown as legal heirs. He has also relied on the Election Identity card, where it has been shown that the 5th respondent is son of one Ramaswamy. Therefore, it is clear from the succession certificate, dated 11.11.2010 that the petitioner and her children only are the legal heirs of the deceased Krishnan and they are having right to claim terminal benefits, which is applicable to the deceased Krishnan. As rightly pointed out that the said Kamalam is not wife of deceased Krishnan and the 5th respondent is shown as son of one Ramaswamy. Since the said Kamalam is wife of one Ramaswamy, she has no right over the claim of the deceased Krishnan.



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7. The next contention that was raised by the respondents is that in the succession certificate the deceased Krishnan name was mentioned as '**Krishnan @ Pattani**', therefore the claim of the petitioner cannot be accepted. The contention of the petitioner is that the said name '**Pattani**' is a nick name, hence, the nick name of '**Pattani**' is not entered in the service register. However, in the Service register as well as the death certificate, the deceased Krishnan's father name was mentioned as '**Krishnan son of Neelan**' and the same is concurring. The respondents have relied on the nick name which is shown in the succession certificate. Since the father's name is same in all the records the respondents cannot rely on the nick name and deny the benefits applicable to the petitioner.

8. By considering all these facts, the impugned order, dated 13.07.2015 is hereby quashed. The respondents are directed to disburse entire terminal benefits as well as the family pension with arrears to the petitioner, within a period of three weeks, from the date of receipt of a copy of the order.



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9. With the observations and directions, this Writ Petition is allowed.

No Costs.

Index : Yes / No
Internet : Yes
ksa

08.06.2023

To

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S.SRIMATHY, J

ksa

**Order made in
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