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W.P.No.12224 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2024

CORAM

THE HONOURABLE MRS. **JUSTICE R.KALAIMATHI**

W.P.No.12224 of 2016

M.Punitha

... Petitioner

VS.

1.The Tamil Nadu Generation and Distribution Corporation Ltd rep.by its Chairman and Managing Director, Head Office, 800, Anna Salai, Chennai.

2.Tamil Nadu Generation and Distribution Corporation Ltd rep.by the Chief Engineer and Head Office, 800, Anna Salai, Chennai.

3.Tamil Nadu Generation and Distribution Corporation Ltd rep.by the Superintending Engineer Distribution Circle, Mettur, Salem District.

4.Kiruthika

5.Kalavathi

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to appoint the petitioner on



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compassionate grounds and to disburse all the service benefits due to the deceased Mr.V.Mohan in favour of his legal heirs viz., Mrs.M.Rajammal (wife) and daughters viz., herself and her sisters M.Saranya and M.Sivaranjani.

For Petitioner : Ms.Amrutha Srinivasan
for Mr.A.Chandru

For R1 to R3 : Mr.R.Nikkhilesh Yadhav
for Mr.K.Rajkumar

For R4 & R5 : Mr.G.C.Nelson Britto

ORDER

This writ petition has been filed to issue a writ of Mandamus, directing the respondents to appoint the petitioner on compassionate ground and to disburse all the service benefits due to the deceased Mr.V.Mohan in favour of his legal heirs viz., Mrs.M.Rajammal (wife) and daughters viz., herself and her sisters M.Saranya and M.Sivaranjani.

2. Heard Ms.Amrutha Srinivasa learned counsel for the petitioner and Mr.R.Nikkhilesh Yadhav, learned counsel for Mr.K.Rajkumar, learned Standing Counsel for R1 to R3 and Mr.G.C.Nelson Britto, learned counsel



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for R4 and R5.

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3. The learned counsel for the petitioner submits that the petitioner's father viz., late Mr.V.Mohan entered wedlock with her mother namely Mrs.M.Rajammal in the year 1982 by following the Hindu customary rites in the presence of relatives in her native place. The petitioner along with her two sisters namely M.Saranya and M.Sivaranjani had born out of the said wedlock.

4. The petitioner further submits that her father got appointed in the office of the respondent at Edapadi Taluk, Thevur Office as Assessor in the year 1979 and died in harness on 10.08.2013 as Record Clerk. After adjusting the loan amount of Rs.3,00,000/-, he was entitled to a sum of Rs.9,27,000/-. The service records of her father disclosed that her mother is the legally wedded wife and the petitioner is one of the legal heirs of the deceased V.Mohan. While facts stand so, one Eswari claimed to have got married her father in the year 1975 and it was also alleged that two daughters were born out of the said wedlock.

5. The learned counsel for the petitioner would submit that the said



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Eswari and her daughters had filed the suit in O.S.No.215 of 2013 before the District Munsif Court, Mettur seeking service benefits and monetary benefits of his deceased father. Even though, the Civil Court has not granted any interim order as against the respondents, till date, the service benefits due to the petitioner's father in not disbursed in favour of her family members. The learned counsel further would submit that the petitioner has given a representation to the second and third respondents dated 18.04.2015 seeking appointment on compassionate ground and further requesting the respondents not to give compassionate appointment to any of the daughters of the alleged wife of her deceased father. Since, till date no reply has been received on the said representations, this writ petition is filed.

6. The learned counsel for the third respondent would submit that that Tmt.Eswari and 2 others had filed O.S.No.215 of 2013 before the District Munsif Court, Mettur. In the absence of any specific order from the District Munsif Court, Mettur to disburse the terminal benefits of the deceased employee of V.Mohan, the respondent Board did not take any decision either to disburse the terminal benefits or providing compassionate appointment to the eligible legal heirs.



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7. It is further submitted that both of the rival claimants are failing to produce their respective legal documentary evidence showing that they are the legal heirs of the deceased employee. However, neither the petitioner nor the plaintiff in O.S.No.215 of 2013 had produced Legal heirship Certificate issued by the Tahsildar/Revenue Department which is the legal document declaring that they are the legal heirs of the deceased employee.

8. It is further submitted that unless and until finalization of the issue of the legal heir of the deceased employee through Court of Law it is not feasible either to disburse the terminal benefits or to provide compassionate appointment and sought for dismissal.

9. It appears that the said Eswari filed a suit in O.S.No.215 of 2013 before the District Munsif Court, Mettur seeking to declare that the plaintiffs have the right to share in the service benefits of the deceased Mohan as per the compromise agreement dated 19.08.2013 who died on 10.08.2013 and consequent permanent injunction to prevent the defendants 1 to 4 from receiving all the service benefits of the 5th defendant, deceased Mohan until the disposal of this suit was sought for.



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10. Finally, the suit was dismissed as against the 1st plaintiff. The relief of declaration sought by 2nd and 3rd plaintiffs is available to them. It is declared that 2nd and 3rd plaintiffs have equal share in the service benefits of the deceased Mohan based on the Panchayat Award dated 19.08.2013. Consequentially, the relief of permanent injunction sought by the 2nd and 3rd plaintiffs is also available to them. Therefore, 1st to 4th defendants are permanently enjoined from receiving all the service benefits of the 5th defendant, deceased Mohan. It is also learnt that against the said Judgment, mother of the petitioner has preferred an appeal before the Sub Court, Mettur in A.S.No.9 of 2021.

11. In the Life Insurance Policy taken by the deceased V.Mohan and the Transfer Certificate of the petitioner, name of the petitioner's mother viz., Mrs.V.Rajammal was mentioned. Issue still persists as to who is the legally wedded wife of the deceased V.Mohan. It is pertinent to note that Legal heirship Certificate was not filed by either side in the said suit.

12. Accordingly, this writ petition is dismissed with liberty to the petitioner to present the petition to the respondents subject to the result of A.S.No.9 of 2021. No costs.



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Index : Yes/No
Internet : Yes/No
kkd

To

1. The Chairman and Managing Director,
The Tamil Nadu Generation and Distribution
Corporation Ltd, Head Office,
800, Anna Salai, Chennai.
2. The Chief Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd and Head Office,
800, Anna Salai, Chennai.
3. The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd,
Distribution Circle,
Mettur, Salem District.



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R.KALAIMATHI, J.,

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