



WEB COPY



W.P.No.7296 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.7296 of 2023
& WMP Nos.7360, 7365, 7367 & 7368 of 2023

1.Jothiga

2.Priyadharshini (Minor)
D/o.Late.S.Vanjiciko
Rep.by her mother and
Natural Guardian V.Jeyanthi
No.33/17, Jawahar Nagar
5th Main Road, Jawahar Nagar
Chennai 600 082.

.... Petitioners

-Vs-

1.Indian Oil Corporation Limited
Western Region
The Deputy General Manager (ER) WR
Indian Oil Bhavan-BKC
Plot C-33, G-Block
Bandra Kurla Complex
Bandra (East) Mumbai-400 051.

2.Indian Oil Corporation Limited
Western Region
The Chief General Manager (HR)
WRO Indian Oil Bhavan-BKC
Plot C-33, G-Block
Bandra Kurla Complex
Bandra (East) Mumbai-400 051.



W.P.No.7296 of 2022

3.Indian Oil Corporation Limited
Marketing Division, Southern Region
The General Manager I/c (ER) SR
Indian Oil Bhavan
139, Uthamar Gandhi Road
(Nungambakkam High Road)
Chennai 600 034.

4.Mrs.V.Thenmozhi

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a

Writ of Certiorarified Mandamus to call for the records of the 1st respondent made in proceedings Ref No.ER/SV/23123/22/02 dated 29.12.2022 and consequential order made in Ref No.ER/SV/23123/22/03 dated 13.01.2023 and quash the same and consequently direct the respondents 1 to 3 to provide the terminal dues in equal proportion, including the payment of Tatkal Sahayatha Yojana as well as Samvedha Rashi scheme.

Writ of declaration, declaring that the payment of death dues of the father of the petitioners late Vanjicko, only to the 4th respondent (1st wife) who is spouse of late.Vanjicko is concerned by curtailing the death benefits due to the demise of biological father's estate to the petitioners who were born out of wedlock through 2nd wife is concerned under Tatkal Sahayatha Yojana as well as Samvedha Rashi Scheme.

For Petitioner : Mr.N.Umapathi

For Respondents : Ms.V.M.Sreenidhi
Standing Counsel
for Agam Legal
for R1 to R3

Mr.K.Saisharavankumar for R4

ORDER

This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 29.12.2022 and the consequential order dated 13.01.2023 and for a direction to the respondents 1 to 3 to pay equal proportion of the terminal



W.P.No.7296 of 2022

benefits in favour of the petitioners, who are none other than the children of the 2nd wife. The petitioners have also sought for a declaration to declare that the payment of terminal benefits to the 1st wife (4th respondent) without considering the claim of the petitioners is illegal and opposed to public policy.

2.Heard Mr.N.Umapathi, learned counsel for the petitioners, Ms.V.M.Sreenidhi, learned Standing Counsel for R1 to R3 and Mr.K.Saisharavankumar, learned counsel for R4

3.The case of the petitioners is that their father was working in the Indian Oil Corporation from 1990 onwards. He had married one Jayanthi and out of the wedlock, the petitioners were born. Initially, their father married the 4th respondent.

4.The further case of the petitioner is that on 04.05.2021, their father died due to Covid 19 infection.

5.The petitioners made a claim for equal proportion in the terminal benefits of their father and inspite of the same, the impugned proceedings dated 29.12.2022, came to be issued to the effect that the amount is payable only to the spouse viz., the 4th respondent and consequently, the entire terminal benefits were sought to be paid only to the 4th respondent by depriving the right of the petitioners. It is under these circumstances, the present writ petition was filed before this Court.



W.P.No.7296 of 2023

6.The learned Standing Counsel appearing on behalf of the Indian Oil Corporation submitted that the deceased had nominated the 4th respondent to receive the terminal benefits. The learned Standing Counsel further submitted that under the Scheme, the spouse of the deceased employee alone is entitled to get the benefits and the claim made by the petitioners, who are the children of the 2nd wife cannot be decided by the 1st respondent.

7.The learned counsel for the petitioner relied upon the judgments of the Apex Court in Shipra Sengupta v. Mridul Sengupta and Others reported in (2009) 10 SCC 680 and Shakti Yezdani & Another v. Jayanand Jayant Salgaonkar & Others made in Civil Appeal No.7107 of 2017, dated 14.12.2023. These judgments will not help the petitioners since under the Scheme, it is only the spouse of the deceased employee who is entitled to get the benefits. Therefore, the employer cannot divide the terminal benefits and grant 50% in favour of the petitioners and 50% in favour of the 4th respondent. The Indian Oil Corporation has strictly gone by the nomination made by the deceased and the relevant Clause under the Scheme.

8.In the considered view of this Court, the petitioners who are the children of the 2nd wife are claiming for an equal proportion in the terminal benefits of their father. The 1st respondent who is the employer cannot decide the inter se dispute between the petitioners and the 4th respondent. The 1st respondent has to merely extend the



W.P.No.7296 of 2023

terminal benefits only in favour of the person who has been named/shown as a nominee. Admittedly, the 4th respondent alone has been shown as a nominee in the service records. In view of the same, the 1st respondent has to necessarily extend the terminal benefits only in favour of the nominee. The impugned proceedings of the 1st respondent has merely reiterated this position.

9.In view of the above, if the petitioners have any claim over the terminal benefits of their father and they are claiming for equal right, that dispute has to be agitated in a different forum and neither the 1st respondent nor this Court exercising its jurisdiction under Article 226 of the Constitution of India can go into this issue. Except giving this clarity, no further orders can be passed in this writ petition.

10.In the result, this writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

23.09.2024

Index : Yes/No
NCS : Yes/No
KP



W.P.No.7296 of 2023

N.ANAND VENKATESH, J.

KP

To

- 1.Indian Oil Corporation Limited
Western Region
The Deputy General Manager (ER) WR
Indian Oil Bhavan-BKC
Plot C-33, G-Block
Bandra Kurla Complex
Bandra (East) Mumbai-400 051.
- 2.Indian Oil Corporation Limited
Western Region
The Chief General Manager (HR)
WRO Indian Oil Bhavan-BKC
Plot C-33, G-Block, Bandra Kurla Complex
Bandra (East) Mumbai-400 051.
- 3.Indian Oil Corporation Limited
Marketing Division, Southern Region
The General Manager I/c (ER) SR
Indian Oil Bhavan
139, Uthamar Gandhi Road
(Nungambakkam High Road)
Chennai 600 034.

Writ Petition No.7296 of 2023

23.09.2024