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W.P.No.17140 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2024

C O R A M

The HON'BLE Dr. JUSTICE. D.NAGARJUN

Writ Petition No.17140 of 2016

D. Bhuvana

...

Petitioner

Vs

1. The Superintendent Engineer,
Tamil Nadu Electricity Board,
Thirupathur, Vellore District.

2. The Supervising Engineer,
Tamil Nadu Electricity Board,
Thirupathur, Vellore District.

3. The Executive Engineer,
Tamil Nadu Electricity Board,
Pallikonda, Vellore District.

4. The Executive Engineer,
Tamil Nadu Electricity Board,
Anaicut, Vellore District.

...

Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Mandamus to direct the respondents to pay interest at the rate of 18% per annum for a sum of Rs.5,57,432/- on and from 06.06.2006 till 31.07.2014 within the time frame.



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For petitioner
For respondents

... Mr.S.Nagarajan
... Mr.M.Fakkir Moihdeen

O R D E R

This Writ Petition is filed seeking for direction to the respondents to pay interest at the rate of 18 % per annum for a sum of Rs.5,57,432/- on and from 06.06.2006 till 31.07.2014 within the time frame.

2. The husband of the petitioner G.Kuppusamy who was working as a Revenue Supervisor in Tamilnadu Electricity Board, died on 06.06.2006 while he was in service. The petitioner has spent a huge amount towards medical expenses of her husband. After the death of the petitioner's husband, she has applied for retirement cum death benefits. The officials of the Electricity Board delayed the process of determining the amount and the benefits have not been disbursed. When the respondent is about to give a cheque to the petitioner, M/s.Chitra has illegally claimed that she is the wife of the G.Kuppusamy and she has filed O.S.No.315 of 2006 on the file of the District Munsif Court, Thirupathur. On 13.11.2014, the respondents have issued a cheque for Rs.5,57,432/- payable to her. On 06.06.2015, the petitioner has sent a letter under Right to Information Act to the Executive Engineer, Thirupathur, seeking



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information about the payments about the death cum retirement benefits. The Executive Engineer, Thirupathur, replied under Right To Information Act on 30.06.2015 that as per letter dated 13.11.2006, an amount of Rs.5,57,432/- is the amount due and payable to petitioner for the retirement cum death benefit of her husband G.Kuppusamy. It is also mentioned that the petitioner is not entitled for any interest.

3. It is submitted by the learned counsel for the petitioner that the death cum retirement benefits on the death of the petitioner's husband should have been paid in the year 2006. Had the death cum retirement benefits paid in the year 2006, the petitioner should have been cleared all the debts in the year 2006 and she would have saved interest to the tune of 6.00 lakhs. It is submitted further that when the respondent has credited Rs.5,57,432 in the petitioner's Bank Account, the bank has adjusted the said amount towards loan repayment which was availed by her towards Medical expenses. Therefore, it is submitted by the learned counsel for the petitioner that petitioner is entitled for interest at the rate of 18% per annum on sum of Rs.5,57,432/- from 06.06.2006 until 31.07.2014.

4. The first respondent has filed counter affidavit on behalf of all the respondents. The sum and substance of the counter affidavit is to the effect that



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the petitioner's husband G. Kuppusamy worked as a Revenue Supervisor at Anaicut, Vellore District in the respondent Tamil Nadu Electricity Board and died on 06.06.2006, while he was in service. The petitioner has applied before the first respondent for death cum retirement benefits of her husband G.Kuppusamy. The first respondent has processed the application and on 13.11.2006, the first respondent has sanctioned all death cum retirement benefits as entitled by the petitioner.

5. It is further stated in the counter affidavit that at that point of time, the respondent received a legal notice from M/s.Chitra stating that she is the illegally wedded wife of the G.Kuppusamy and raised objection for disbursement of death cum retirement benefits to the petitioner. Said Chitra has filed O.S.No.315 of 2006 on the file of the District Munsiff Court, Thirupathur seeking declaration that the said Chitra and her children are legal heirs of the deceased G.Kuppusamy and sought for consequential injunction and direction to disbursement of death cum retirement benefits in her favour. In the said suit, the petitioner and Tamil Nadu Electricity Board were made one of the parties.

6. During the course of trial, the petitioner herein was remained exparte in the said suit, thereby, the exparte judgment and decree was passed



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against the petitioner and in favour of Ms.Chitra. Subsequently, the said Chitra has filed application before the first respondent claiming death cum retirement benefits of the G.Kuppusamy, basing on the judgment in O.S.No.315 of 2006. However, on 14.02.2012, the petitioner has given a representation to the first respondent stating that she will file an Appeal against the exparte judgment and decree and has requested not to disburse the death cum retirement benefits to Ms.Chitara.

7. The petitioner herein Mrs.Bhuvana has filed I.A.No.226/2012 and I.A.No.227 of 2012 in O.S.No.315 of 2006 for setting aside the ex-parte decree made in O.S.No.315 of 2006 and the both the Interlocutory Applications were allowed on 08.07.2013.

8. Subsequently, O.S.No.315/2006 was transferred to District Munsiff Court, Ambur and renumbered as O.S.No.102 of 2013. Subsequently, the said suit was dismissed for default on 07.03.2014 on account of non appearance of Mrs.Chitra. Consequently, M/r.Chitra has filed I.A.No.158 of 2014 in O.S.No.102 of 2012 seeking for restoration of O.S.No.102 of 2013 which was dismissed for default but I.A.No.158 of 2014 was dismissed on 20.06.2014.



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9. In view of the prolonged litigation between the petitioner and Chitra, in respect of death cum retirement benefits of deceased G.Kuppusamy, the respondent board has taken legal advice and the respondent board has decided to disburse the death cum service benefits of the deceased G.Kuppusamy to the petitioner. Accordingly, on 31.07.2014, the first respondent has sanctioned a sum of Rs.5,57,432/- infavour of the petitioner and the same was also disbursed in favour of the petitioner by way of cheque dated 13.08.2014.

10. It is submitted by the learned counsel for the Additional Government Pleader that the delay in disbursement of death cum retirement benefits to the petitioner is not on account of the administrative delay of the respondent, but it was on account of the pendency of the Civil Suit between the petitioner and M/s.Chitra as to who is entitle for the death cum retirement benefits of the deceased G.Kuppusamy, therefore submitted that interest can be levied as the respondents are not at all responsible for the delay in disbursement of the death cum retirement benefits of the deceased G.Kuppusamy in favour of the petitioner.

11. Heard both sides and perused the records.



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12. Mr.G.Kuppusamy who is the husband of the petitioner died on 31.07.2014, while he was working in Tamil Nadu Electricity Board. The petitioner being the wife of the said G.Kuppusamy, has applied for death cum retirement benefits. However, the said benefits were ultimately disbursed to the petitioner on 13.08.2014. Therefore, from the date of death of the petitioner, there is a delay of about 12 years from the date of disbursement of the death cum retirement benefits of the deceased G.Kuppusamy.

13. It is settled legal proposition that in case if there is delay on the part of administration in disbursement of death cum retirement benefits, the concerned department which is responsible for causing the delay in disbursement is liable to pay the appropriate interest. Therefore, the question to be considered is whether in the case on hand, the respondents are responsible for the delay of about 12 years in disbursement of death cum retirement benefits of the deceased G.Kuppusamy in favour of petitioner. As seen from the affidavit of the petitioner in this Writ Petition at Para No.4, the petitioner has mentioned that subsequent to her application for the death cum retirement benefits of G.Kuppusamy, the respondent board was about to issue cheque in favour of the petitioner. However, at that point of time, Ms.Chitra, has filed O.S.No.315 of



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2006 on the file of the District Munsiff Court, Ambur, claiming that she is the wife of the deceased G.Kuppusamy that means if the Civil Suit is not filed by Ms.Chitra in the year 2006, the respondent department would have handed over the cheque to the petitioner as mentioned by the petitioner herself in the her affidavit.

14. Ms.Chitra has filed O.S.No.315/2006 against the petitioner and also against the respondents seeking for a direction to the respondents to pay the death cum retirement benefits of G.Kuppusamy in favour of the M/s.Chitra. Once Suit has been filed, since there is a dispute as to whom the death cum retirement benefits has to be disbursed, either to the petitioner D.Bhuvana or to the plaintiff/Ms.Chitra in O.S.No.315 of 2006, the department has kept pending the disbursement of the death cum retirement benefits. In fact the decision of the respondent board is correct in not disbursing the death cum retirement benefits of G.Kuppusamy, in favour of either petitioner or M/s.Chitra, because as narrated in the counter affidavit filed in O.S.No.315 of 2006 was decreed against the petitioner and basing on the said decree M/s.Chitra has also claimed the death cum retirement benefits. At that stage, the petitioner has filed a representation not to disburse the death cum retirement benefits in favour of M/s.Chitra and again she has filed an application before the Court basing on



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which the ex parte order was set aside and ultimately suit was dismissed.

Therefore, the respondent board was not sure as to in whose favour of the judgment will be decided. Therefore, the decision of the respondent board is justified in keeping the disbursement of death cum retirement benefits pending, on account of pendency of the O.S.No.315 of 2006. It is also to be noted that Civil Suit was ultimately disposed of on 20.06.2014 and the death cum retirement benefits were disbursed within the period of less than two months ie on 13.08.2014 by way of cheque.

15. Therefore, on considering the above sequences of events that unfolded from the death of petitioner's husband, it is clear that there was a contest between the petitioner and Ms.Chitra claiming death cum retirement benefits and ultimately since the Court has dismissed the claim of Ms.Chitra, then it is clear for the respondent board to disburse death cum retirement benefits in favour of the petitioner. Therefore, in view of the above, this Court is of the opinion that that respondent board is not at all responsible for the delay in disbursing the death cum retirement benefits to the petitioner. In case if the death cum retirement benefits disbursed long ago in favour of the petitioner and



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in case if the Civil Suit is decided in otherwise directing the respondent board to disburse the death cum retirement benefits in favour of Chitra, then the respondent board would have been in trouble. Therefore, there is a justification for the respondent board in delaying the disbursement of the death cum retirement benefits of the deceased G.Kuppusamy, in favour of the petitioner herrein.

16. In view of the above sine there is no delay on the part of the respondent board the petitioner is not entitled for any interest for delay in payment of death cum retirement benefits of the deceased G.Kuppusamy in favour of the petitioner D.Bhuvana.

17. Accordingly, this Writ Petition is dismissed. No costs.

01.08.2024

Index : Yes / No
Speaking/Non-speaking Order
Neutral Citations: Yes/No
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To
1. The Superintendent Engineer,



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Tamil Nadu Electricity Board,
Thirupathur, Vellore District.

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Dr.D.NAGARJUN, J.

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