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W.P.No.8283 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.04.2024

CORAM:

THE HON'BLE DR JUSTICE D.NAGARJUN

W.P.No.8283 of 2021

Y.Margaret Shanthi

...Petitioner

Versus

- 1.The Registrar (Housing),
O/o. The Registrar (Housing),
No.48, Ritherdson Salai,
Purasaivakkam,
Veppary,
Chennai – 600 007.
- 2.The Additional Registrar of Cooperative Societies/
Managing Director,
O/o. Tamil Nadu Cooperative Housing Federation,
No.48, Ritherdson Salai,
Purasaivakkam,
Veppary,
Chennai – 600 007.
- 3.The Deputy Registrar of Cooperative Societies (Housing),
O/o. The Deputy Registrar of Cooperative Societies (Housing),
East Garden Street,
Fairlands – 636 016.
- 4.The President,
A.A-249, Kavindapadi Co-operative House
Building Society Ltd.,
No.94-A, Siruvalur Road,
Kavindapadi – 638 455,
Bhavani Taluk,
Erode District.

...Respondents



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Prayer: This writ petition is filed under Article 226 of the Constitution of India, with a prayer to issue a writ of Mandamus directing the respondents to release the monetary benefit of the petitioner's husband as per the order passed in CP.No.52 of 2017 by the Labour Court, Salem dated 13.09.2019 by considering the petitioner representations dated 24.06.2017, 30.01.2019, 14.10.2019, 30.09.2020 and 08.03.2021.

For Petitioner	: Mr.R.Marudhachalamurthy
For Respondents	
R1 to R3	: Mr.RU.Dinesh Raj Kumar Additional Government Pleader
R4	: Mrs.T.Girija

ORDER

This writ petition is filed under Article 226 of the Constitution of India, with a prayer with a prayer to issue a writ of Mandamus directing the respondents to release the monetary benefit of the petitioner's husband as per the order passed in CP.No.52 of 2017 by the Labour Court, Salem dated 13.09.2019 by considering the petitioner representations dated 24.06.2017, 30.01.2019, 14.10.2019, 30.09.2020 and 08.03.2021.

2. The petitioner husband joined the 4th respondent society as a clerk on 27.10.1985. He was promoted subsequently to the post of secretary. He expired on 09.01.2017 due to cardiac arrest while in service, leaving behind the petitioner, a son and daughter as legal heirs. The 4th respondent has not released the monetary benefits of the husband



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of the petitioner. The petitioner has filed CP.No.52 of 2017 for release of PF, Earned Leave Salary, Arrears of Salary, Death Benefits etc. Respondent Nos.2 and 4 have participated in the proceedings and ultimately CP was allowed on 13.09.2019.

3. The petitioner has sent detailed representations to pay the monetary benefits of her husband but there was no response. However, as per the communication dated 21.01.2021 it is stated by the respondent No.4 that after completion of audit, the orders of the Labour Court will be considered. However, even after lapse of many years, fourth respondent has not complied with the directions of the orders passed in CP.

4. Learned counsel for the 4th respondent has filed the counter affidavit and submitted that the husband of the petitioner by name/Mr.S.David Raj joined as a clerk in the 4th respondent society and promoted as secretary on 16.12.20023 and was expired on 09.01.2017, and that the petitioner is eligible for the following terminal benefits:

Sl.No.	Benefits	Amount
1.	Gratuity	Rs.3,72,075.00/-
2.	240 days leave salary	Rs.2,48,728.00/-
3.	Staff Provident Fund	Rs.7,00,000.00/-



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Sl.No.	Benefits	Amount
4.	Salary pending for November 2015 December 2016 and January 2016 (only nine days)	Rs.71,437.00/-
5.	Staff Security Deposit	Rs.1,000.00/-
Total		Rs.13,93,240.00/-

5. It is further mentioned in the counter-affidavit that out of which an amount of Rs.3,72,075.00/- was settled with the family members of the deceased Mr.S.David Raj including the petitioner by the 4th respondent on 27.11.2017 through a cheque bearing No.274437. After deducting the staff provident fund loan of Rs.59,539/-, funeral advance of Rs.5,000/-, consumer loan of Rs.24,788/-, festival allowance of Rs.800, the balance of amount Rs.2,75,948/- was given to the petitioner through the aforesaid cheque. Remaining terminal benefits of Rs.10,21,165/- could not be paid to the petitioner by the 4th respondent, on account of financial difficulties.

6. It is submitted by the learned counsel for the respondent that there is no provision for payment of Rs.2,75,948/- as death claim to the petitioner, which is applicable only for the Government Servant, since the petitioner was not a Government Servant the said Rs.2,75,948/- need not be paid.



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7. Heard both sides and on perusal of all the available materials on record. There is no dispute in respect of quantum of amount to be paid to the petitioner by the 4th respondent. In respect of the death benefit of Rs.2,75,948/- is concerned. According to learned counsel for the 4th respondent, the petitioner husband was not a Government Servant thereby he is not entitled for the said Rs.2,75,948/-. The Petitioner counsel has not produced material before the Court or any Rules that the Petitioner is entitled for the death benefit of Rs.2,75,948/-.

8. As per the orders of CP No.52 of 2017 dated 13.09.2019, the respondent No.4 is required to pay sum of Rs.7,88,167.00/- along with 6 % interest as terminal benefits. However, the learned counsel for the respondent has submitted that as per their calculation the petitioner is entitled for Rs.13,93,240.00/- and after deducting the amount already paid vide cheque No.274437 and after deducting the amount to be paid by the petitioner husband to the 4th respondent society, ultimately the respondent society has to pay an amount of Rs.10,21,165.00/-, to the petitioner. The learned counsel for the 4th respondent has requested the Court to grant sometime to pay the said amount considering the poor



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financial conditions of the 4th respondent society.

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9. In view of the discussions made above, this writ petition is disposed of directing the 4th respondent to pay an amount of Rs.10,82,434.9/- as agreed by the 4th respondent in the counter affidavit as quickly as possible not less than three (3) months from the date of receipt of copy of this order. There shall be no order as to costs.

24.04.2024

Index : Yes/No
Speaking : Yes/No
Neutral Citation Case: Yes/No
nst

To:

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