



W.P.No.40201 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	20/12/2023
Delivered on	12/6/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.40201 of 2015
a n d
M.P.No.1 of 2015

Saraswathy ... Petitioner

Vs

1. The Sr. Divisional Security Commissioner
Office of Sr. Divisional Security Commission
Railway Protection Force
Chennai 600 003.
2. The Inspector General of Police (IG)
Railway Protection Force
MMC Building, 6th Floor
Chennai 600 003.
3. The Divisional Manager
RPF Divisional Office
Southern Railways Buildings
Chennai 600 003.
4. The General Manager
Southern Railway Pension Section
Chennai 600 003.

5. S. Thilagavathi ... Respondents



W.P.No.40201 of 2015

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus to call for the records of the first respondent pertaining to the rejection order in Proceedings No.M/XP/500/Sett.15 Sr. Divisional Security Commissioner, RPF, Chennai, dated 17/8/2015

For petitioner	...	Ms.Keerthana for Mr.PA.Kadirvel
For respondents	...	Mr.P.T.Ramkumar Standing Counsel for R.R.1 to 4

ORDER

This writ petition is filed seeking to quash the order dated 17/8/2015 passed by the first respondent/Sr. Divisional Security Commissioner, RPF, Chennai, in No.M/XP/500/Sett.15 and consequently, direct the respondents 1 to 4 to sanction the share of the pensionary and other benefits to the petitioner on the death of her son by name M.Santhanam with 12% interest.

2. The petitioner has got three sons, and two daughters viz., M.Rajendran, M.Santhanam (died), M. Hari Kumar, Jayalakshmi and Lalitha. The petitioner's son M.Santhanam was working in the Railway Protection Force at Thiruvallur Railway Protection Force Station, Madras



W.P.No.40201 of 2015

Division. He has married to one Thilagavathi and started living separately at Tirupathur. There was no good relationship between Santhanam and his wife for a long time.

3. The son of the petitioner (Santhanam) died on 31/1/2015. As there was a suspicion on the death, petitioner filed a complaint. She was informed that her son died at Railway Hospital, Perambur, due to kidney failure.

4. On 19/3/2015, the petitioner sent a request to the third respondent to send her one share of the pensionary benefits, on the death of her son. Another request dated 31/3/2015 to the Ministry of Railways to sanction the pension. The first respondent issued impugned Proceeding dated 17/8/2015 made in M/XP/500/Sett.15 stating that the petitioner is not eligible for pension and other benefits of her deceased Son M.Santhanam. Aggrieved by the same, present writ petition is filed.

5. The Senior Divisional Security Commissioner, RPF/Chennai Division has filed counter affidavit, dated 29/11/2023, on behalf of the respondents 1 to 4 stating that as per Rule 74 of the Railway Services



W.P.No.40201 of 2015

(Pension) Rules, 1993, every employee has to nominate a family member to receive death-cum-retirement gratuity payable under Rule 70. While the deceased M.Santhanam was in service, on 17/1/1991, he nominated his wife S.Thilagavathi as beneficiary to receive his settlement dues and has not mentioned the name of the petitioner in the nomination form. It is also mentioned in the counter affidavit that in the Legal heirship certificate submitted by Thilakavathi, issued by the Tahsildar, Ambattur, Tiruvallur District dated 21/4/2015, petitioner's name was not found, thereby, retirement benefits were settled in favour of S.Thilagavathi.

6. It is also mentioned in the counter affidavit that as per Rule 75 (10 – A) (i) and (ii) of the Railway Services (Pension) Rules, 1993, pension can be granted to mother of the deceased employee only if the parents are wholly depend on him and deceased Railway servant is not survived by a widow or an eligible child. It is further mentioned that since the deceased survived by his wife and son, petitioner/mother of the petitioner is not entitled. The Proceeding rejecting the petitioner is therefore, proper and accordingly prays to dismiss the writ petition.



W.P.No.40201 of 2015

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7. Heard Ms.Keerthana, learned counsel for the petitioner and Mr.P.T.Ramkumar, learned counsel for the respondents 1 to 4.

8. The petitioner is the mother of M.Santhanam, who died while working in Railway Protection Force, Tiruvallur, on 31/1/2015. He was survived by his wife Thilagavathi and son.

9. As per Rule 74 of the above said Rules, every employee has to nominate one of his family members to receive the death cum retirement benefits. The petitioner's son has nominated his wife S.Thilagavathi, to receive death-cum-retirement benefits. He has not mentioned the petitioner as the nominee of the retirement benefits and thereby, death-cum-retirement benefits of M.Santhanam were settled in favour of his wife Thilagavathi. The nominee who receives may be or may not be the legal heir of the deceased person. The duty of the nominee is to receive death-cum-retirement benefits and in case, if he is not entitled to appropriate the said amount, he has to hand over the same to the legal heirs of the deceased. In the case on hand, the deceased M.Santhanam has nominated his wife to receive the death-cum-retirement benefits and



W.P.No.40201 of 2015

since she is the legal heir, the Railway Department has settled the death-cum-retirement benefits of M.Santhanam in her favour.

10. According to the learned counsel for the petitioner, there were no proper terms between petitioner's son M.Santhanam and his wife Thilagavathi and other family members. However, there is no record to substantiate the same. Even otherwise, as per the Service Register, his son M.Santhanam has nominated wife. If really there were issue between petitioner, son and his wife, the petitioner son could have changed the mind in favour of either petitioner or some other person. Hence, the submission of the petitioner cannot be accepted.

11. The petitioner though has claimed that she was dependent solely on the deceased son M.Santhanam has not filed any certificate to substantiate that contention. Further, wife of the deceased son by name Thilagavathi has filed legal heirship certificate obtained from the Tahsildar concerned and claimed the death and other retirement benefits. The said legal heirship certificate does not show the name of the petitioner. If really the petitioner is a legal heir and she is also entitled, the petitioner should challenge the said legal heirship certificate or obtain



W.P.No.40201 of 2015

a fresh certificate from the competent authority. But no such thing is done. Further, pension cannot be equated with the property which can be decided under Succession Act.

12. Further, as per Rule 75 (10 – A) (i) and (ii) of the Railway Services Pension Rules, 1993, mother can be granted pension only if the deceased employee has no surviving wife and surviving child. In the case on hand, Thilagavathi is the wife of her deceased son M.Santhanam and the said Santhanam has also child. Therefore, as long as the deceased was surviving with his wife and son, pension cannot be granted to the mother/petitioner. In view of the above, claim of the petitioner is against the Rules and therefore, the same cannot be granted.

13. In the result, this writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

12/6/2024

mvs.

Index: Yes/No

Neutral Citation: Yes/No



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W.P.No.40201 of 2015

Dr.D.NAGARJUN,J
mvs.

Pre-delivery order made in
W.P.No.40201 of 2015

12/6/2024