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W.P.No.9700 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.11.2023

PRONOUNCED ON : 17.04.2024

CORAM:

THE HON'BLE Dr. JUSTICE D.NAGARJUN

W.P.No.9700 of 2015

S.Kumuda

...Petitioner

versus

1. The Director of School of Higher Education,
Nungambakkam, Chennai.
2. The Chief Educational Officer,
Cuddalore District, Cuddalore.
3. The Headmaster,
Sri Varadam Girls Hr. Sec. School,
Manchakkuppam,
Cuddalore, Cuddalore District.
4. G. Subramaniya Raja

... Respondents

Prayer: This Writ petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondents 1 to 3 to pay the petitioner's mother terminal benefits with 24% interest per annum to the



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petitioner.

For Petitioner : Mr.K.Srinivasan

For Respondents : Mr.R.U.Dinesh Raj Kumar
Additional Government Pleader for R1 & R2

ORDER

This Writ Petition is filed by one of the sons of the employee by name N. Jayammal who died on 21.04.1996, seeking for direction to the respondents 1 to 3 to pay the terminal benefits with interest at the rate of 24% per annum.

2. The petitioner's mother by name N.Jayammal wife of D.S.Ganpathy who was working as a Secondary Grade Assistant Teacher in Sri Varadam Government Higher Secondary School at Manjakuppam in Cuddalore, died of heart attack on 21.04.1996, leaving behind petitioner, sister of the petitioner by name G.Kuppu and brother of the petitioner by name Subramaniya Raja, in all three legal heirs.

3. Petitioner's sister by name G.Kuppu is found missing for about 13



years and her whereabouts is not known. Petitioner's brother Subramaniya Raja joined the Government service as a Teacher and working as Post Graduate Teacher and he never shown any interest in claiming the terminal benefits of the deceased petitioner mother and he is not cooperating with the petitioner for claiming the terminal benefits, thereby he is shown as one of the respondents.

4. The Head Master of the school where the petitioner's mother worked, has sent a letter to the petitioner brother by name Subramaniya Raja in respect of terminal benefits, however petitioner's brother has suppressed the said letter. He has given a letter of consent in favour of the petitioner in the year 2006, relinquishing his rights in the terminal benefits of his mother.

5. Petitioner is married and her husband who was working as a Driver was ultimately terminated and he is jobless. The petitioner is having two sons and they don't have any house and the petitioner's family was thrown into the streets, thereby sought for realising of the terminal benefits of his mother in favour of the petitioner.

6. Second respondent/ The Chief Education Officer, has filed the counter



affidavit on behalf of the respondents 1, 2 and 3, stating that on 17.04.1997, the Death Cum Retirement Gratuity (DCRG) of the deceased was disbursed in favour of deceased daughter. The GPF of the deceased was settled among the three legal heirs on 14.10.1997. However, SPF, earmarked for the deceaseds daughter by name Kuppu, remained unclaimed due to her disappearance for the last 13 years. The petitioner has approached the respondent on 27.08.2015, with a consent letter given by her brother relinquishing his rights over the death cum retirement benefits of the deceased and the petitioner has also submitted death certificate of the sister by name Kuppu on 23.10.2015. The death cum retirement benefits whatever to be paid to the legal heirs of the deceased employee could not be paid along with DCRG and GPF as there were disputes among the legal heirs of the deceased children and the children of the deceased have committed inordinate delay in submitting all required documents. Soon after receiving required documents on 28.10.2015, all pending terminal benefits were disbursed to them on 01.02.2016, thereby subsequent to 01.02.2016, there was nothing to be paid to the deceased.

7. The details of the DCRG and GPF of the deceased are as under:



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Sl. No	Name of terminal benefits	Bill No. & Treasury D.D. Date	Amount claimed & disbursed	Legal Heirs	Remarks
1	DCRG	B.No.3/97-98. DD Dt. 17.4.97 B. No.40/97-98 DD. Dt.17.10.97	Rs.67,900- + Rs.5,000 Rs.72.900-	Selvi G. Kuppu (1 legal heir)	As per SR nomination
2	GPF	B.No.41/97-98 Each DD. Dt. 9.10.97	Rs.7,139 Rs.7,139 Rs.7,139 Rs.21417/-	1. Selvi G.Kuppu 2.Tmt. S.Kumutha 3.G.Subramaniya Raja	Equally divided

8. The details of remaining benefits including Leave Salary, SPF subscription, SPF interest, FBF are as under:

Sl.No	Name of terminal benefits	Bill No and ECS encashment date	Amount claimed & disbursed to the petitioner
1	Salary for 21 days from 1.4.1996 to 21.4.1996	B.No.150/2015 Encashed on: 19.02.2016	Rs.4142/-
2	SPF- 1984 – SPF-subscription	B.No.124/2015 Encashed on 18.10.2016	Rs.2900/-
3	SPF-1984- SPF Interest	B.No.125/2015 Encashed on: 18.01.2016	Rs.1962/-
4	FBF	B.No.126/2015 Encashed on: 20.01.2016	Rs.1,00,000/-

Therefore, the learned counsel has sought for closure of this Writ Petition.

9. Heard both sides and perused the records.



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10. As on the date of filing of the Writ Petition, except the GPF and DCRG and the remaining death cum retirement benefits of the petitioner's mother were not disbursed. Normally, if there is any delay or laches on the part of the Government in disbursing the death cum retirement benefits, the Government can be found fault and if the unexplained delay is enormous, then beneficiaries are also entitled for the interest. The petitioner mother passed away on 21.04.1996, however except DGRC which was paid on 17.04.1997, GPF was paid on 09.10.1997, the rest of the retirement benefits were not paid to the legal heirs of the deceased employee.

11. The reason for non payment of the terminal benefits is not on account of any administrative lapse on the part of the Government. Out the three legal heirs, one petitioner's sister by name Kuppu was found missing since long time and her whereabouts were not known, however, ultimately the petitioner has filed her death certificate before the authorities on 28.10.2015 to show that Kuppu died on 23.10.2015. Similarly on 28.10.2015 itself, the petitioner has filed another document to show that the petitioner brother has relinquished his rights in balance of death and terminal benefits in favour of the petitioner.



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Therefore, subsequent to filing of the Writ Petition only, the petitioner could file two documents pertaining to the death of the petitioner's sister Kuppu and petitioner's brother relinquishing his rights in the terminal and death benefit of the deceased employee in favour of the petitioner, thereby the petitioner has become sole person who is entitle to receive the retirement and other benefits belonging to the deceased employee. On considering the same, according the counter, the respondent Government has disbursed all the benefits to the petitioner on 01.02.2016 and the same was not disputed by the petitioner. Once the respondents have paid all the terminal benefits of the deceased employee in favour of the petitioner, cause does not survive any more further to prosecute this Writ Petition, and the Writ Petition is liable to be dismissed.

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

17.04.2024

Index : Yes / No
Speaking/Non-speaking Order
Neutral Citation: Yes/No
jai

To
1. The Director of School of Higher Education,
Nungambakkam, Chennai.



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2. The Chief Educational Officer,
Cuddalore District, Cuddalore.

Dr.D.NAGARJUN, J.
jai

3. The Headmaster,
Sri Varadam Girls Hr. Sec. School,
Manchakkuppam,
Cuddalore, Cuddalore District.

Pre-Delivery Order
W.P.No.9700 of 2015

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