



WEB COPY



W.P.No.31152 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2024

CORAM

THE HONOURABLE Mrs. JUSTICE R.KALAIMATHI

W.P.No.31152 of 2016

B.Sasikumar

...Petitioner

vs.

1. The Commissioner of Municipal Administration
Ezhilagam Annexe
Chepauk,
Chennai 600 005.

2. The Director of Local Fund Audit,
Kuralagam IV Floor,
Chennai 600 108

3. The Commissioner,
Sathyamangalam Municipality,
Sathyamangalam,
Erode District.

(R3 Impleaded vide Order dated 26.07.2023
made in W.M.P.No.33762 of 2016)

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus directing the respondents to sanction DCRG, Provident Fund, Special Provident Fund and un encashed leave salary of Petitioner's mother (Mrs.Sarasal-Sanitary Worker) died on 20.03.2014 along with 12% interest to the petitioner within a date fixed by this Court.



WEB COPY



W.P.No.31152 of 2016

For Petitioner : Mr.A.R.Nixon
For R1 & R2 : Mr.C.Sangamithirai
Special Government Pleader
For R3 : Mr.B.Anand

ORDER

This writ petition is filed by B.Sasikumar son of one deceased Sarasal, directing the respondents to sanction DCRG, Provident Fund, Special Provident Fund and Unencashed leave salary of the petitioner's mother (Mrs.Sarasal – Sanitary Worker) died on 20.03.2014 along with 18% interest.

2. The petitioner B.Sasikumar son of Bannari is one of the legal heirs of the deceased Sarasal. The said Sarasal is mother of the petitioner herein. She worked in the Sathyamangalam Municipality as a Sanitary Worker and died on 20.03.2014 while she was in employment. She joined in the service before the 3rd respondent municipality on 07.10.1999. The Commissioner of Municipality sent a proposal for the sanction of DCRG on 13.02.2015. The petitioner's mother service was regularized as per G.O.Ms.No.195, Municipal Administration and Water Supply Department dated 17.08.1999. The service of his mother was regularized on and from 06.10.1999.



W.P.No.31152 of 2016

3. The petitioner further submits that while sending a proposal for the death benefits of his mother, the Assistant Director II raised a query on 27.10.2015 in Na.Ka.No.75/த1/2015 stating that the employment certificate for the years 07.10.1999 to 31.12.1999, 30.06.2000, 31.06.2001, 30.06.2002, 30.06.2010, 30.06.2011, 30.06.2012, 31.12.2013 and 01.01.2014 to 20.03.2014 has to be obtained. The deceased Sarasal while she was in service, received 3 percent of enhanced salary as per G.O.Ms.No.237, Finance Department dated 22.07.2014 and 3 percent of enhanced scale was sanctioned for her as per G.O.Ms.No.234, Finance Department dated 01.06.2009 instead of Rs.230/-. The petitioner further submits that, as on 20.03.2014 encashed salary for 140 days has to be modified. Since his mother has not completed 15 years of service, there is no provision for surrendering of unencashed salary.

4. While so, the petitioner received a letter dated 07.10.1999 from the Assistant Director of Local Fund, Chennai stating that his mother was appointed permanently as sanitary worker on 07.10.1999 and her services ought to have been regularized only from 23.02.2006. Whereas, the service of his mother was regularized on 14.03.2000 through proceedings of the Commissioner of Sathyamangalam Municipality in



W.P.No.31152 of 2016

Na.Ka.No.3217/99/C1. Though his mother died on 20.03.2014, the death benefits have not been paid. Hence, this writ petition.

5. Ms.C.Sangamithirai, learned Special Government Pleader for the respondents 1 and 2 would contend that the 2nd respondent has not received any proposal from the Sathyamangalam Municipality regarding the sanction of DCRG. The Sanitary Workers whose services have been regularized with effect from 22.03.2006 are not eligible for pension, DCRG and they are entitled to receive contributory pension only.

6. Mr.B.Anand, learned counsel for the 3rd respondent would submit that the petitioner's mother Sarasal was appointed as Sanitary Worker on consolidated wages. The wages of the said Sarasal was mistakenly regularized by the 3rd respondent by proceedings dated 05.11.1999. The petitioner gave a representation dated 20.03.2014 for payment of death benefits payable in favour of death of his mother Sarasal.

7. By the proceedings dated 29.09.1998 of Sathyamangalam Municipality Commissioner in Na.Ka.No.3812/97/H1, salary of the deceased Sarasal was fixed at Rs.2000/- on consolidated basis. This was ordered as per the G.O.No.71 (3 (3)) (ii). It appears that as on



W.P.No.31152 of 2016

31.12.1996, the enlisted persons including the deceased Sarasal worked as Sanitary Worker for 5 to 10 years, and they were granted consolidated pay.

8. By the proceedings dated 14.03.2000 passed by the Municipal Commissioner of Sathyamangalam in Na.Ka.No.3217/99/C1 as per G.O.(Ms).No.71, Municipal Administration and Water Supply Department dated 05.05.1998 and as per the Municipal Administrative Commissioner order No.7819/2000/J3 dated 25.02.2000, time scale pay was fixed for the deceased Sarasal and for the other 36 persons with effect from 06.10.1999 and her services were regularized with effect from 07.10.1999.

9. Ms.C.Sangamithirai, learned Special Government Pleader appearing for the respondents 1 and 2 would submit that against the order of Hon'ble Full Bench of this Court in W.P.No.1083 of 2012 dated 29.11.2013, writ petition filed by the state government was dismissed and the S.L.P.No.21935 of 2017 which was filed by the state government is pending before the Hon'ble Supreme Court.

10. But, as regards deceased Sarasal is concerned, it is made clear that by the proceedings dated 14.03.2000, the service of the deceased



W.P.No.31152 of 2016

Sarasal was regularized with effect from 07.10.1999. The legal heirs of the deceased Sarasal are entitled to be paid the death benefits namely DCRG, Provident Fund, Special Provident Fund, encashment of leave salary and other benefits, if any.

11. Based on the aforesaid discussions, this writ petition is allowed, directing the 3rd respondent to sanction the death benefits to the legal heirs of deceased Sarasal and pay the same with interest at the rate of six percent preferably within a period of eight [8] weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions, if any, are also closed.

30.04.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
mac



W.P.No.31152 of 2016

WEB COPY

To

1. The Commissioner of Municipal Administration
Ezhilagam Annexe
Chepauk,
Chennai 600 005.
2. The Director of Local Fund Audit
Kuralagam IV Floor,
Chennai 600 108
3. The Commissioner,
Sathyamangalam Municipality,
Sathyamangalam,
Erode District.



WEB COPY



W.P.No.31152 of 2016

R.KALAIMATHI, J.

mac

W.P.No.31152 of 2016

30.04.2024