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W.P.Nos.33830 & 30037 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.33830 & 30037 of 2023 and
WMP.No.29668 of 2023

WP.No.33830 of 2023

1.Dhanamani

2.Perumal.S

... Petitioners

Vs.

1.The Director,
Medical and Rural Health Services,
DMS Campus,
Chennai 600 006

2.The Joint Director,
Medical and Rural Health Services,
Cuddalore,
Cuddalore District

3.The Chief Medical Officer,
Chidambaram Government Hospital,
Chidambaram

4.The Accountant General,
Accounts and Entitlements,
No.361, Anna Salai,
Teynampet, Chennai 600 018

5.Baby Shakila

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of mandamus directing the first respondent



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to consider the representation of the second petitioner dated 26.09.2023 and further direct the respondents disburse the 2/3 of the amount due to the deceased Dr.P.Ravi i.e. death cum pensionary benefits within a period fixed by this Court.

For Petitioners : M/s.S.Lavanya

For Respondents

For R1 to 3 : Mr.V.Veluchamy,
Additional Government Pleader

For R4 : Mrs.J.Sree Vidya,
Standing Counsel

WP.No.30037 of 2023

R.Babyshakila

... Petitioner

Vs.

- 1.The Director,
Medical and Rural Health Services,
DMS Complex,
No.361, Anna Salai,
Chennai 600 006
- 2.The Joint Director of Health Services,
Cuddalore District,
Cuddalore 607 001
- 3.The Chief Medical Officer,
Government Kamaraj Hospital,
Chidambaram 608 001
- 4.The Principal Accountant General,
Accounts and Entitlements,
361, Anna Salai,
Chennai 600 018
- 5.The Treasury Officer,



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District Treasury,
Cuddalore District,
Cuddalore
6.The Assistant Treasury Officer,
Sub-Treasury,
Chidambaram 608 001
7.S.Perumal
8.Dhanamani

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of mandamus forbearing the respondents 1 to 6 from disbursing the death benefits and monetary benefits of late Dr.P.Ravi to the 7th and 8th respondents and ensure that the death benefits and monetary benefits are settled in favour of the petitioner.

For Petitioner : Mr.L.Chandrakumar
for Mr.P.Kannan Kumar

For Respondents
For R1 to 3, 5, 6 : Mr.V.Veluchamy,
Additional Government Pleader

For R4 : Mrs.J.Sree Vidya,
Standing Counsel

For R7 & 8 : Mrs.S.Lavanya
for Mr.K.Chandru

COMMON ORDER

The writ petition in WP.No.30037 of 20213 has been filed



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for direction to forbear respondents 1 to 6 from disbursing the death benefits and monetary benefits of the the petitioner's late husband to respondents 7 and 8. The writ petition in WP.No.33830 of 2023 has been filed for direction to respondents 1 to 4 to disburse 2/3 of death cum pensionary benefits due to their son.

2. One, Ravi, who is the husband of the petitioner in WP.No.30037 of 2023 is the son of the petitioners in WP.No.33830 of 2023. The petitioner in WP.No.30037 of 2023 hereinafter called as wife and the petitioners in WP.No.33830 of 2023 hereinafter called as parents. While he was serving as Chief Medical Officer, Government Kamaraj Hospital, Chidambaram died on 22.10.2022. Initially, he got married one, M.Geetha and divorced her on 06.03.2006 by the judgment and decree dated 06.03.2006 in HMOP.No.61 of 2005 on the file of the Sub Court, Chidambaram by way of mutual consent. Thereafter, he got married the petitioner in WP.No.30037 of 2023 on 11.04.2010. While he was alive, along with his wife, he had jointly purchased properties by availing housing loan from HDFC Bank. Even after his demise, the wife is paying



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dues for the said loan. After his demise, the wife and the parents were issued legal heir certificate. The parents submitted representation to disburse the retirement benefits in their favour. In fact, while he was alive, the wife's name was nominated as nominee in the service register for receiving all his service benefits.

3. On perusal of counter filed by the fourth respondent, revealed that the wife submitted application claiming death cum retirement benefits before the third respondent and the same was forwarded to the fourth respondent. However, the wife failed to submit attested invitation of marriage between the wife and the deceased husband. Therefore, proposal was returned to submit any original proof for their marriage by the communication dated 10.10.2023. While pending the claim in respect of GPF, by the proceedings dated 26.09.2023, thereby authorised in equal shares in favour of the wife and the parents as per the legalheirship certificate in accordance with the rule provisions under the General Provident Fund (Tamilnadu) Rules. However, it was kept in abeyance in view of the interim order passed by



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this Court in WMP.No.29668 of 2023 in WP.No.30037 of 2023 dated 16.10.2023. The Rule provisions governing the grant of family pension and DCRG under Tamilnadu Pension Rules and General Provident Fund (Tamilnadu) Rules are extracted hereunder:

i) Family Pension:

As per Rule 49 (7) of the TNPR, family pension in respect of a deceased Government Servant is payable to the spouse.

As per the provisions of Rule 49 (13) (b) of the TNPR, family in relation to a Government Servant means, inter alia, father and mother in the case of unmarried Government Servants. As per para 2 of G.O. Ms. No. 327 Finance (Pension) Department dated 30.08.2001, family pension shall be sanctioned to the parents of a deceased Government Servant, subject to the following conditions:

- a) The parents were wholly dependent on the Government Servant when he/she was alive.*
- b) The Government Servant has not left behind a widow / widower, eligible son or daughter or a widowed / divorced daughter.*
- c) The income criteria in respect of the parents will be Rs.2550/- per month (enhanced subsequently in*



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G.O. 337 Finance (Pay Cell) Department dated 14.11.2017).

ii) Death Cum Retirement Gratuity (DCRG)

As per the provisions of Rule 46(1)(a) of TNPR, DCRG payable in respect of a deceased Government Servant shall be paid to the persons or persons on whom the right to receive the gratuity is conferred by means of a nomination under Rule 48.

Further as per Rule 48 (7) (c) of TNPR, the nomination filed by a Government Servant for DCRG should be countersigned by the Head of Office, in the case of a Self Drawing Government Servant or his subordinate (who should be a Self Drawing Officer) authorised by him, in the case of a Non-Self Drawing Government Servant.

4. As per service records, the deceased husband filed nomination for the purpose of DCRG, countersigned by the head office, conferring right on his parents to receive DCRG in equal shares in the event of his demise. However, nothing was recorded for the purpose of GPF amount. The deceased also enclosed the marriage certificate issued by the Vaitheeswaran Temple, Sirgazhi for his marriage took place on 11.04.2010 between the deceased and his wife. Therefore, the petitioner



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in WP.No.30037 of 2023 is the legally wedded wife and she is entitled for all claim. Even according to the fourth respondent, insofar as family pension is concerned, the wife is entitled to receive the monthly family pension from the date of demise of her husband i.e. 22.10.2022.

5. However, the only objection raised by the fourth respondent is that in the service records, in the nominee column, though the deceased husband nominated his wife as nominee, it does not bear the signatures of witnesses and also not countersigned by the head office. Therefore, it cannot be considered as valid nomination. Admittedly, the deceased husband nominated his parents as nominee on 07.07.1995 for the purpose of DCRG i.e. before his marriage. Even after his marriage with the first wife, he did not nominate his first wife as his nominee in his service register. Thereafter, both got mutual divorce decree in HMOP.No.61 of 2005 by the judgment and decree dated 06.03.2006 on the file of the Subordinate Judge, Tambaram. He married the petitioner in WP.No.30037 of 2023 and nominated her name in the service register to receive DCRG and GPF in page No.78(a) and 79(a) in his service



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register. Therefore, the wife alone is entitled for all family pension, DCRG and GPF final balance and the parents are not entitled to receive any benefit of their deceased son such as DCRG, GPF final balance amount.

6. Therefore, the writ petition in WP.No.30037 of 2023 is allowed and the other writ petition in WP.No.33830 of 2023 is dismissed. Respondents 1 to 4 in WP.No.33830 of 2023 are directed to disburse DCRG, GPF final balance amount and family pension along with arrears forthwith to the wife i.e. the petitioner in WP.No.30037 of 2023. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Director,
Medical and Rural Health Services,
DMS Complex,
No.361, Anna Salai,
Chennai 600 006
- 2.The Joint Director of Health Services,
Cuddalore District,
Cuddalore 607 001
- 3.The Chief Medical Officer,
Government Kamaraj Hospital,
Chidambaram 608 001
- 4.The Chief Medical Officer,
Chidambaram Government Hospital,
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- 5.The Principal Accountant General,
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