



W.P.(MD).No.470 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.470 of 2024

1.A.Velammal

2.Bhuvaneshwari

... Petitioners

Vs.

1.The Commissioner,
Madurai Corporation,
Arignar Anna Maligai,
Madurai-625 002.

2.The Education Officer,
Madurai Corporation,
Arignar Anna Maligai,
Madurai-625 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondent No. 1 to issue No Objection Certificate, to sanction all monetary benefits regarding Gratuity, Pensions and Provident Fund to the Petitioners may be fix the stipulated time.

For Petitioner : Mr.T.R.Subramanian

For Respondents : Mr.K.K.Kannan
Standing Counsel



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ORDER

The present writ petition has been filed seeking direction to the 1st respondent to issue No Objection Certificate, to sanction all monetary benefits regarding Gratuity, Pensions and Provident Fund to the Petitioners within a stipulated time.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The 2nd petitioner is the 1st petitioner's grand daughter. The 1st petitioner's son, namely A.Selvaraj worked at Kasthooribai Gandhi Corporation Girls Higher Secondary School as Office Assistant. The school had been under the control of the respondent herein. The 1st petitioner's son married one Pitchaiammal and they were blessed with one daughter namely Bhuvaneshwari / 2nd petitioner herein. The 1st petitioner's daughter-in-law died on 11.08.2011 and her son Selvaraj died on 05.03.2022 while in service. After the death of her son, the 1st petitioner received a notice from the Principal Subordinate Court, Madurai in E.P.No.368 of 2022 in C.D.No.23 of 2013 as a



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2nd Garnishee / 2nd respondent. The 1st petitioner appeared duly before the said Court and informed the death of her son and produced the Death Certificate. The same was recorded and the Court dismissed the same on the side of 2nd respondent / 2nd Garnishee. The Execution Petition was filed on 08.08.2022 after 5 months of the death of the 1st petitioner's son. There is no power to attach the salary of the 1st petitioner's son by M/s.Sriram Chits Indian (P) Ltd. After dismissal of the 1st petitioner's son name in the Execution Petition, the 2nd respondent sent proceedings, dated 15.03.2023 to the 2nd petitioner. The 1st petitioner's son had not borrowed any loan from M/s.Sriram Chits Indian (P) Ltd and he had signed only as witness. On 01.12.2022, the Principal Subordinate Court, Madurai had dismissed the Execution Petition against the 1st petitioner's deceased son and hence, the Garnishee attachment of salary of the 1st petitioner's deceased son is not binding. The 2nd petitioner alone is the legal heir of the said Selvaraj, who is entitled to get gratuity and monetary benefits of the deceased Selvaraj. The 2nd respondent has to issue No Objection Certificate, gratuity and monetary benefits in favour the petitioners. The 2nd petitioner had sent a representation on 01.04.2023 to the respondents and last of such representation was sent on 18.10.2023 to the 1st respondent. However, the said representation was not considered.



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4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

5. Without going into the merits of the case, this Court hereby direct the respondents to consider the representation of the petitioners, dated 18.10.2023 and pass appropriate orders in accordance with law within a period of eight (8) weeks from the date of receipt of copy of this order.

6. With the above said observations, this Writ Petition stands disposed of. No costs.

09.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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L.VICTORIA GOWRI, J.

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