



WP(MD)No.10906 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.10906 of 2022 and
WMP(MD)No.8105 of 2022**

K.Ravi

... Petitioner

Vs

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Public Health and Welfare Department,
Secretariat, Chennai -9.
- 2.The Director of Public Health and
Preventing Medicine,
Directorate of Public Health and
Preventing Medicine Department,
Teynampet, Chennai – 600 006.
- 3.The Deputy Director,
Office of the Deputy Director of Health Works (General),
Ramanathapuram District,
Ramanathapuram.

...Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings in Na.Ka.No.3899/A1/2020, dated 18.04.2022 and quash the same as illegal and consequently to direct the 3rd respondent to disburse the death benefits and all other monetary benefits of the deceased employee



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namely Dr.Sugantha to the petitioner within the period that may be stipulated by this Court.

For Petitioner : Mr.Mohamed Imran
for M/s.Ajmal Associates
For Respondent : Mr.P.T.Thiraviyam,
Government Advocate

ORDER

The petitioner's daughter one Sugantha was appointed as Assistant Surgeon at the Government Primary Health Centre, Devipattinam on 30.03.2017. She died in the suspicious circumstances on 12.11.2021. Since her husband had admitted her in the hospital and left the hospital without informing anyone, a criminal case was registered as against her husband in Crime No.483 of 2021 for the offence punishable under Sections 294(b) and 498(A) IPC altered into 306 IPC. While so the petitioner as a father of the deceased employee has made a request to the respondents to disburse the family benefit fund of the deceased government employee. The request of the petitioner was rejected that the spouse of the deceased government employee alone is entitled for the benefits as per the Pension Rules and a criminal case is pending as against the husband of the



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deceased employee and therefore, based on the outcome of the criminal case a decision would be taken. Challenging the same the petitioner has filed this writ petition.

2.The learned Counsel for the petitioner submits that the petitioner's name is mentioned as nominee in the service register of her daughter. She died in a suspicious manner and as against her husband a case in Crime No. 483 of 2021 is also registered and the same is pending. He further submits that the impugned order has been passed based on the Pension Rules. The petitioner's daughter was appointed under the Contributory Pension Scheme and therefore, the Pension Rules would not be applicable in her case. The learned Counsel has also relied on the orders of this Court dated 21.11.2023 passed in WP(MD)No.6596 of 2016, which was disposed of by this Court in similar circumstances. This Court by referring to the submission made on behalf of the Accountant General and by referring to the Government Letter No.29593A/ Finance (Pension) Department dated 25.08.2009 disposed of the writ petition that the nominee is entitled for the benefits. The relevant portions are extracted as under:



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“3. Since the matter relates to issue of pension, at the request of Mr.P.Gunasekaran, learned Standing Counsel for Accountant General (Audit) to get a clarification on the issue, Mr.P.Gunasekaran has produced a clarification issued by the Government of Tamil Nadu in its Letter No. 29593A/Finance (Pension) Department/2009, dated 25.08.2009. The said clarification reads as follows:

“..... shall be paid to the nominee or in the absence of any nomination, to the legal heirs of the deceased employee.

4. From the clarification letter, it is very clear that the amount under the Contributory Pension Scheme is payable to the nominee and only in the absence of the nominee, the amount becomes payable to the legal heirs. The writ petitioner has produced the copy of the nomination form of the deceased Devi, whereunder, she has nominated the writ petitioner as person entitled to receive the Death cum Retirement Gratuity.

5. I have to point out here that even though notice was served on the fourth respondent, he has not appeared or he has not contested the proceedings.



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6. Consequently, in the light of the clarification issued by the Government of Tamil Nadu, the writ petition has to succeed and the same is allowed. The respondents 1 and 2 are directed to verify the nomination form produced by the third respondent to them and after such verification, if the nomination made on the death of the writ petitioner has not been changed, the respondents 1 and 2 are directed to disburse Death cum Retirement Gratuity benefits to the writ petitioner. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7. With the above directions, this Writ Petition is allowed. Consequently connected Miscellaneous Petition is closed. No costs.”

3. The learned Government Advocate appearing for the respondents 1 to 3 submits that the spouse of the deceased employee is eligible for the benefits and therefore, by referring the Pension Rules only the impugned order has been passed.

4. This Court considered the rival submissions and perused the materials placed on record.



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5. Admittedly the deceased employee Sugantha was appointed under the Contributory Pension Scheme. The impugned order has been passed by referring to the provision under the Pension Rules. This Court by considering the clarificatory letter of the Government of Tamil Nadu dated 25.08.2009 already disposed of a similar matter as cited supra.

6. In view of the clarification issued by the Government vide letter dated 25.08.2009 the impugned order is set aside. The respondents 1 to 3 are directed to consider the case of the petitioner in the light of the clarification issued by the Government letter dated 25.08.2009 after verifying with the nomination as recorded by the deceased employee in her service register and pass appropriate orders within a period of six months from the date of receipt of a copy of this order.

7. The writ petition is disposed of in the above terms. No costs. Consequently connected miscellaneous petition is closed.

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Internet : Yes / No
Index : Yes / No
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To
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Secretariat, Chennai -9.
2. The Director of Public Health and
Preventing Medicine,
Directorate of Public Health and
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3. The Deputy Director,
Office of the Deputy Director of Health Works (General),
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B.PUGALENDHI.J.,

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