



W.P.No.19424 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2025

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.19424 of 2023

D. Ashokan

.. Petitioner

Versus

1.The District Collector
O/o District Collector Office,
Coimbatore District.
2. The Commissioner,
Commissionerate of Town Panchayats,
M.R.C. Nagar, Raja Annamalaipuram,
Chennai – 28.

3. The Executive Engineer,
Aanaimalai town Panchayat,
Aanaimalai, Coimbatore District.

...Respondents

Prayer: This petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Respondents herein to disburse pending service monetary benefits of petitioner's brother late Mr.D. Nagarajan in favour to the petitioner by considering petitioner's representation dated 13.03.2023 accordance with law within a time as may be framed by this Hon'ble Court and pass orders.



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For Petitioner : No Appearance
For Respondents 1 &2 : Mr.S.Rajesh
Government Advocate
For Respondent 3 : Mr.V. Prashanth Kiran

ORDER

This writ petition is filed seeking to issue a Writ of Mandamus directing the Respondents herein to disburse pending service monetary benefits of petitioner's brother late Mr.D. Nagarajan favour to the petitioner by considering petitioner's representation dated 13.03.2023 accordance with law within a time as may be framed by this Court and pass orders.

2.The facts of the case is that the brother of the petitioner is an employee of the 3rd Respondent. It is pertinent to note that as his wife and child passed away, he lived with his brother/petitioner and his mother. The service records also reveal that the petitioner and his mother were the nominees. The sum and substance of the case is that as the mother of the petitioner was also passed away on 21.04.2003 the petitioner continues to be the only legal heir of his brother/late D.Nagarajan. When this being the case the petitioner approached the 3rd respondent to disburse the pending



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monetary benefits of his brother/late D.Nagarajan and gave a representation to the second and third respondents in this regard on 13.03.2023. However, there is no progress in the representation, hence this petition.

3. The learned Government Advocate appearing for the third respondent filed a counter, wherein it was submitted that based on the representation of the petitioner dated 13.03.2023 and the legal heirs certificate issued by the Tahsildar, Pollachi Taluk Rs.1,15,936/- was settled to the petitioner in three instalments, vide Rs.40,000/- on 16.06.2012, Rs.35,159/- on 14.06.2016 and Rs.30,780/- was paid on 16.08.2017 through his Bank Account. It was further stated that the representation of the petitioner dated 13.03.2023 was forwarded in Na.Ka.No.354/2012, dated 21.07.2017 to the local audit Dept and the same was returned in Moo.Mu.No2628/P.O.Sa(2)2014, dated 14.08.2014 with remarks that the brother of the deceased employee under 18 years alone will be eligible for Death Cum Retirement Benefits as per Section 45(5) (viii) of the Tamil Nadu pension Rules, 1978. It was further sated



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that the details of benefits already paid to the petitioner and the rejection order passed for the claim made by the petitioner with regard to the Death Cum Retirement Benefits from the Local Fund Audit was informed to the petitioner on 30.03.2023, 20.04.2023 and 05.06.2023.

4. Heard both sides and perused the materials available on record.

5. On a perusal of records, it is seen that certain benefits were paid to the petitioner and with regard to other benefits it was stated that the brother of the deceased employee under 18 years alone is eligible for Death Cum Retirement benefits as per Section 45(5)(VIII) of the Tamil Nadu Pension Rules , 1978. Before advertizing further it would be relevant to go through Section 48 (ii) of the Tamil Nadu Pension Rules , 1978, wherein it is stated that if the Government Servant has no family, the nomination may be made in favour of a person or persons, or a body of individuals, whether incorporated or not, has right to receive the Death-cum-retirement gratuity payable under Rule 45.



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6. In view of the above provisions it is made clear that the age cannot be a bar to receive the pending monetary benefits to the deceased Government Servant and the petitioner is entitled to receive the same. Further more, in the service records the petitioner and his brother were shown as nominees and a legal heir certificate was also issued by the concerned Tahsildar stating that the petitioner can be consider as a nominee for the purpose of receiving the monetary benefits. Hence there is no legal impediment for the respondents to disburse the monetary benefits to the petitioner. Therefore, this Court directs the Respondents to disburse the pending retirement benefits to the petitioner and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above directions, this Writ Petition stands disposed of.

No order as to costs.

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Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
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V.BHAVANI SUBBAROYAN, J.

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To

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