



W.P.No.1688 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 30.08.2023

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.1688 of 2021

Adlin Mirudhula

... Petitioner

Vs.

- 1.The Manager,
Tamil Nadu State Transport Corporation (Salem),
Salem – 636 007.
- 2.The Assistant Manager (Provident Fund),
Tamil Nadu State Transport Corporation (Salem),
Salem.
- 3.The Manager,
Tamil Nadu State Transport Corporation (Salem),
Dharmapuri Depot at Bharathipuram,
Dharmapuri.
- 4.The Employees Provident Fund Office,
Sub-Regional Office,
1st and 2nd Floor, Jayalakshmi Complex,
Anna Salai, Swarnapuri,
Salem – 636 004.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for records of the



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second respondent passed in his proceeding Ka.No.6544/PF3/Provident Fund/TNSTC(Salem)/2020, dated 11.03.2020 and quash the same and further direct the second respondent to send his positive recommendation to the fourth respondent forthwith to disburse all death benefits of my father R.Sellappan who died on 26.11.2013 and to sanction family pension of 2/3 for petitioner (Adlin Mirudhula) and her sister namely Merlin and to sanction 1/3 of family pension to petitioner's paternal grand-mother namely Madhammal.

For Petitioner : Mr.D.Rameshkumar

For Respondents 1 to 3 : Mr.R.Babu,
Standing Counsel

For Respondent 4 : M/s.R.Meenakshi,
Standing Counsel

ORDER

This writ petition has been filed by the petitioner to call for records of the second respondent passed in his proceeding Ka.No.6544/PF3/Provident Fund/TNSTC(Salem)/2020, dated 11.03.2020 and quash the same and further direct the second respondent to send his positive recommendation to the fourth respondent forthwith to disburse all death benefits of my father R.Sellappan who died on 26.11.2013 and to sanction family pension of 2/3

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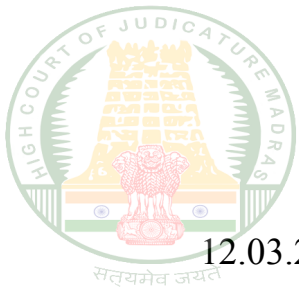


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for petitioner (Adlin Mirudhula) and her sister namely Merlin and to sanction

1/3 of family pension to petitioner's paternal grand-mother namely Madhammal.

2. The case of the petitioner is that the petitioner's father was working as a Driver under the third respondent (Employee No.DR6544) and having Provident Fund No.5461 without any blemish of records and he died on 26.11.2023 in a road accident and the petitioner's mother namely Mariaselvam, pre-deceased her father on 23.09.2013. The petitioner has one younger sister viz., Merlin and paternal grandmother namely Madhammal, who are the surviving legal heirs to her father and the Tashildar, Dharmapuri Taluk has also issued a legal heir certificate to that effect. The petitioner and her younger sister were minors at the time of death of their father, which gave rise to a Guardian Original Petition in G.O.P.No.5 of 2014, before the Principal District Court, Dharmapuri, initiated by her maternal grandfather Mr.Saminathan, sought to appoint him as guardian for the petitioner as well as her younger sister viz., Merlin, against the paternal grandmother. Subsequently, the Guardian Original Petition is harmoniously settled before the Lok Adalat vide Lok Adalat case No.39/2016 and the award dated

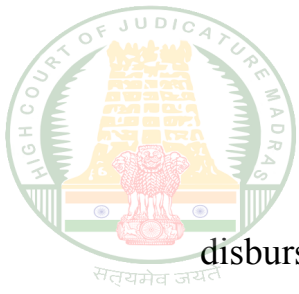


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12.03.2016 had been passed and the parties bound to the Lok Adalat award,

wherein the issues on claim with regard to LIC benefits, death benefits of the petitioner's father and compensation under Motor Accidents Claims Tribunal had been reached finality. Thereby, the paternal grandmother agreed to receive 1/3 of family pension to her account (as per Government Rules) and to receive Rs.2,00,000/- out of LIC benefits and both to contest in Motor Accident Claim cases. Further, the petitioner and her younger sister are entitled to get 2/3 of family pension of their father and the paternal grandmother is entitled to receive 1/3 of family pension and paternal grandmother has also given affidavit to that effect. This being so, the petitioner made a representation dated 06.12.2019 before the second respondent, requesting him to disburse the death benefit of petitioner's father as well as family pension.

2.2. In response to the aforesaid representation, the second respondent passed an order in Ka.No.6544/PF3/Provident Fund/TNSTC(Salem)/2020 dated 11.03.2020, wherein, it is stated that the name of nominees had not been registered in Service Register of her father and hence, he shall not



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disburse death benefits and he further directed the petitioner and her sister to approach the Civil Court for Succession Certificate so as to process their application for death benefits and family pension. Challenging the aforesaid order dated 11.03.2020, the petitioner has come forward with the present writ petition.

3. Learned Counsel for the petitioner submitted that the second respondent has no authority to pass such impugned order as the matter is concerned with the Employees Provident Fund Office/4th respondent herein and hence, the application should be forwarded to the fourth respondent along with the recommendation of the second respondent. The dispute with regard to the claim on death benefits and family pension of the deceased had been amicably settled by virtue of Award of Lok Adalat dated 12.03.2016 in G.O.P.No.5 of 2014 on the file of the Principal District Court, Dharmapuri. Hence, he prayed for allowing this writ petition.

4. The learned standing counsel appearing for the respondents 1 to



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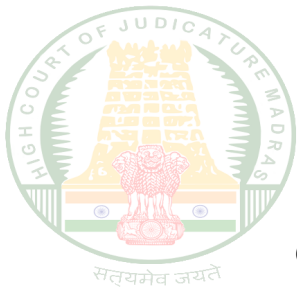
3 has filed a counter affidavit dated 14.07.2023, wherein, it is stated that, the

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deceased father of the petitioner has failed to enter their children name in the Service Register as well as in the Provident Fund Trust Nomination Forms. Hence, the petitioner was intimated to submit a Succession Certificate through Court, only to avoid complications and to settle terminal benefits as per law to the eligible legal heirs. Moreover, the management has settled some of the benefits to the petitioner and the same is reads as follows:

- 1) Family welfare fund of Rs.1,50,000/- settled on 16.05.2019 to the three legal heirs mentioned in the legal heir certificate (Rs.50,000/- each) (Grandmother and Two Daughters)
- 2) Leave liability of Rs.34,743/- settled on 21.06.2023 to Two daughters
- 3) Details of benefits to be settled:

1)Provident Fund	=Rs.1,50,604/-
2)Gratuity	=Rs.1,99,883/-
3)Leave Surrender	=Rs. 22,903/-
4)Social Welfare Fund	=Rs. 87,435/-
5)IRTT Amount	= <u>Rs. 4,500/-</u>
Total	=<u>Rs.4,65,325/-</u>



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6) Pension Per Month (appx) =Rs.3,050/-
(Minimum Basic Pension to be audited)

7) Pension Arrears upto 30.06.2023 =Rs.3,51,157/-
(to be audited) (appx)

5. The learned standing counsel appearing for the respondents 1 to 3 further stated that the petitioner's father has rendered a net qualifying service of 16 years and the he is entitled for family pension. Hence, after the submission of Succession Certificate, the legal heirs of the deceased employee have been settled with all the pending benefits as per Rules and law in force.

6. The learned standing counsel appearing for the fourth respondent has filed a counter affidavit on 30.03.2023, wherein, it is stated that the petitioner's father was an employee in Tamil Nadu State Transport Corporation (TNSTC), Salem, which had been excluded from the purview of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 with effect from 01.09.1998. The Provident fund and Pension benefits are governed by Tamil Nadu State Transport Corporation only. The petitioner had applied for Provident Fund, Pension, Gratuity benefits with the first



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respondent. Hence, the petitioner was asked to produce the Succession

Certificate to release the aforesaid benefits. Hence, the second respondent is not required to conduct any enquiry from the fourth respondent and the petitioner to release the Provident fund and pension benefits, since no account of Late petitioner's father has been maintained by this office and the fourth respondent has no role in the Writ petition.

7. Heard the learned counsel on either side and perused the materials available on record.

8. In this case, the petitioner's father was an employee in Tamil Nadu State Transport Corporation (TNSTC) as Driver, who died in a road accident on 26.11.2013. He has not mentioned his children name as legal heirs in the Service Register as well as in the Provident Fund Trust Nomination Forms. Moreover, the petitioner's father and mother are not alive. Hence, the petitioner was instructed to submit a Succession Certificate through Court so as to enable the respondents 2 to 3 to settle the benefits of their deceased father.



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9. It can be found from the Counter affidavit of the respondents 1 to 3 that **there is no rival claim from any persons, since the death of petitioner's father i.e., for the last ten years till 2023. If there is any rival claim, the respondents can direct the petitioner to submit the Succession Certificate from the Competent Court. But, in this case, it is not required. The petitioner and her younger sister are entitled for 2/3 of family pension of their late father and her paternal grandmother is entitled for 1/3 of family pension and the paternal grandmother has also given 'No objection Certificate' to that effect on 20.07.2018. Therefore, apart from that 1/3 share being paid to Mrs.Madhammal, the remaining 2/3 of share may be paid to the petitioner viz., Adlin Mirudhula and her sister Merlin.**

10. It is pertinent to note that the prayer in this writ petition is to quash the order passed by the second respondent dated 11.03.2020 and to direct the Second respondent to send recommendation to the fourth respondent to disburse all benefits of their late father R.Sellappan, who died on 26.11.2013



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and to sanction family pension of 2/3 for the petitioner (Adlin Mirudhula)

and her sister Merlin and to sanction 1/3 of the share to her paternal grandmother Mrs.Madhammal.

11. From the above facts and circumstances, it is clear and evident that the fourth respondent i.e., The Employees' Provident Fund Organization does not have any role in this issue. Since, the petitioner's deceased father was an employee of Tamil Nadu State Transport Corporation, Salem Division and the same has been excluded from the purview of the Employee Provident Fund Provisions Act, 1952 with effect from 01.09.1998. The Provident Fund and pension benefits are governed only by the Tamil Nadu State Transport Corporation and not by the Employee Provident Fund Office, who is the fourth respondent herein.

12. The petitioner has applied for Provident fund, Gratuity benefits only with the second respondent, who is the competent authority to settle the benefits to the petitioner, her sister and Paternal Grandmother and not the



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fourth respondent as stated in the writ petition. The legal heirs certificate dated 20.01.2014 was also issued by the Zonal Deputy Tashildar, Dharmapuri, in which the following names are mentioned as legal heirs of Late R.Sellappan, who was the deceased father of the petitioner:

SL.NO.	NAME	AGE	RELATIONSHIP
1.	Mrs.Madhammal	70	Mother
2.	Ms.AdlinMirudhula	12	Daughter
3.	Ms.Merlin	8	Daughter

The above certificate was issued on 20.01.2014, now the petitioner has become major (21 years) and her sister Ms.Merlin is still minor, who is aged about 17 as an date. There is no dispute regarding the legal heirs of the deceased employee viz., late R.Sellappan. **This apart, there is no rival claim from any person, claiming the retirement benefits and other benefits of the late R.Sellappah, deceased father of the petitioner.**

13. In view of the above factual matrix of the case, this Court is of the considered view that the petitioner and her sister are entitled for 1/3 of share each and their paternal grand mother is entitled for 1/3 of share on death benefits and Family Pension.



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14. In the result, this writ petition stands allowed and the respondents 1 to 3 are directed to disburse the death benefits of the petitioner's father late R.Sellappan, who died on 26.11.2013 and to sanction 2/3 of the family pension to the petitioner and her sister Merlin and 1/3 of family pension to the petitioner paternal grandmother Mrs.Madhammal, within a period of three months from the date of receipt of a copy of this order. No costs.

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Index : Yes/No
Speaking Order : Yes/No

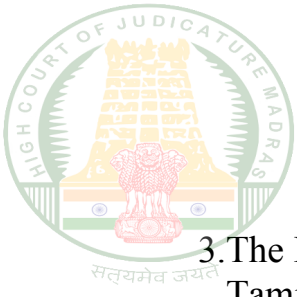
J.SATHYA NARAYANA PRASAD,J.

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To:

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Salem – 636 007.
- 2.The Assistant Manager (Provident Fund),
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3.The Manager,
Tamil Nadu State Transport Corporation (Salem),
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4.The Employees Provident Fund Office,
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