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W.A.No.2445 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE C.KUMARAPPAN

W.A.No.2445 of 2019 and
C.M.P.Nos.16044 & 15940 of 2019

1.The Chennai District Collector,
Singaravelar Malligai,
No.32, Rajaji Salai,
Chennai – 1.

2.The District Collector,
Kancheepuram District.

3.The Tahsildar,
Saidapet Taluk.

... Appellants

Vs.

1.T.V.S.Jaya Perumal (Died)

2.P.Natheesbabu

[R2 substituted as LR of the
deceased 1st respondent vide order
dated 15.09.2023 made in CMP.No.8104/2022]

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying
to set aside the order dated 28.08.2017 made in W.P.No.28093 of 2004.



WEB COPY



W.A.No.2445 of 2019

For Appellants : Mr.Vadivelu Deenadayalan
Additional Government Pleader

For Respondents : M/s.N.Gayathri for R2
: R1- Died

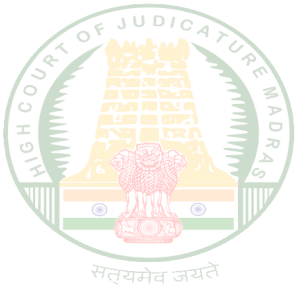
JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

This appeal has been directed against the order passed by the Writ Court dated 28.08.2017 made in W.P.No.28093 of 2004.

2. It is yet another unfortunate case this Court has seen where one T.S.Perumal was working as the Village Assistant at the office of the Tahsildar, Mambalam-Guindy and during his service he died in harness on 10.06.1987.

3. After his sudden death, the family has been under penurious circumstances, therefore the only source of income for the family is depending upon the family pension, for which the petitioner - T.V.S.Jaya Perumal, wife of the deceased employee had requested for sanctioning family pension.



W.A.No.2445 of 2019

WEB COPY 4. In this context, the Sub Collector, Saidapet vide his communication dated 08.12.1987 had directed the Tahsildar, Guindy-Mambalam, Chennai to consider the request of the petitioner and to do the needful. The relevant portion of the letter dated 08.12.1987 of the Sub Collector, Saidapet reads thus:

“பார்வையில் காணும் கடிதத்துடன் வரப்பெற்ற திருமதி.டி.எஸ். ஜெயா பெருமாள் என்பவரின் மனு இணைக்கப்பட்டுள்ளன. அவரது கணவர் கிண்டி மாம்பலம் வட்டம், வேளச்சேரி கிராமத்தில் தலையாரியாக பணிபுரிந்து 10.06.87ல் இறந்ததாக தெரிவித்துள்ளார். அவருக்கு சேரவேண்டிய தொகைகள் அளிக்கப்பட்டனவா என்பது குறித்து தக்க நடவடிக்கை எடுத்து மனுதாரருக்கு தெரிவிக்க வட்டாட்சியர் கேட்டுக் கொள்ளப்படுகிறார்.”

5. But nothing was moved forward, therefore the petitioner had approached the District Collector i.e., the 1st appellant herein who had sent communication to the Tahsildar, Saidapet, the 3rd appellant herein on 03.04.1989 with the following content:

“சென்னை மாவட்ட வருவாய் அலகினைச் சேர்ந்த திரு.டி.எஸ்.பெருமாள் என்கின்ற தலையாரி 10.6.87 அன்று காலமானார். எனவே அன்னாரின் குடும்பத்தாருக்கு குடும்ப ஓய்வூதியம் வழங்க தக்க முன்மொழிவுகளை அனுப்புமாறு கேட்டுக் கொள்கிறேன்.

ஓம்/ ரா.சுப்ரமணியம்,
மாவட்டாட்சியருக்காக,



W.A.No.2445 of 2019

WEB COPY 6. Despite these proceedings which were issued by the Collector as well as the Sub Collector, nothing has been moved in forward direction at the office of the Tahildar concerned. Therefore, having no other option the petitioner had moved this Court by filing the said writ petition in W.P.No.28093 of 2004 seeking for a writ of mandamus directing the respondents who are the appellants herein to pay the terminal benefits and family pension due to the late T.S.Perumal.

7. The said writ petition was heard and the learned Judge has allowed the same by order dated 28.08.2017 which is impugned herein.

8. Heard Mr.Vadivelu Deenadayalan, learned Additional Government Pleader appearing for the appellants and Ms.N.Gayathri, learned counsel for the respondent.

9. In fact, the wife of the deceased employee filed the writ petition in the year 2004, that writ petition came to be decided only on 28.08.2017. This has been recorded by the learned Judge in para 4 of the writ order, which reads thus:



WEB COPY



W.A.No.2445 of 2019

“4.At the time of filing the writ petition, the petitioner was aged about 55 years and she has approached this Court for settlement of the terminal benefits of her husband. Even after such a long time from her husband's death on 10.06.1987, the petitioner is not able to get a single paise from the Government. Now she would have reached the age of seventy years. There is no dispute regarding the death of the petitioner's husband while he was in service.”

10. In the order impugned, the learned Judge has considered the aforesaid communication of the Sub Collector as well as the District Collector dated 08.12.1987 and 03.04.1989 respectively and also rejected the contention raised on behalf of the appellants who were the respondents before the Writ Court quoting G.O.(Ms)No.625 Revenue Department dated 06.07.1975 and after giving all these reasons, the said writ petition was allowed through the impugned order by the Writ Court.

11. However, the appellant Department not accepted the decision of the Writ Court, therefore the present intra Court appeal has been directed.

12. During the pendency of this appeal, the respondent who is the wife of the deceased employee also died, therefore their son P.Natheesbabu has been impleaded as the 2nd respondent in this appeal



W.A.No.2445 of 2019

who himself is 60 years old now and is already suffered with some ailment.

13. This is the pathetic situation of the family. The deceased employee was working in the lowest ebb of the hierarchy i.e., Village Assistant erstwhile called as “Thalaiyari”. May be a small post but the job entrusted to such Village Assistant is very pertinent and important in certain contingencies.

14. Whether it is night or day, rainy or hot sun, calamity or in normal circumstances, the services of such Village Assistants are pressed into service or drawn by the higher officials of the Revenue Department.

15. After having extracted such a work from a Village Assistant for several years and if such a Village Servant died during service in harness, whether he is entitled to get death-cum-retirement benefits and whether the spouse of the deceased employee would be entitled to get the family pension benefits is not a matter to be adjudicated into further as a litigious area.



W.A.No.2445 of 2019

16. In fact, this position is fortified by the said two

communications of the higher officials of the Revenue Department. The first one is from the Sub Collector, Saidapet dated 08.12.1987 and the second one is from the Collector of the District i.e. Collector, Chennai dated 03.04.1989.

17. If at all there is some confusion with regard to by which Office his pension papers or family pension of the deceased employee has to be cleared i.e., either by the Tahsildar office located in Chennai District or in Kancheepuram District that is the internal matter to be sorted out by the officials of the Revenue Department, for which a poor employee like the deceased Perumal cannot be taken into task.

18. This in fact has been pointed out by the learned Judge in para 9 of the order impugned stating that, the Court is not able to understand as to why the poor lady was made to run from pillar to post for the past several years without paying any benefits.

19. The employee died in 1987, we are in 2023, 36 long years have gone.



W.A.No.2445 of 2019

WEB COPY 20. For these 36 long years, a poor widow of a lower grade Government servant has been struggling throughout the rest of her life to get the lawful benefits from the Government, but she failed, despite the Court ordered it in the year 2017, i.e., after 13 years of the litigation instituted in this Court.

21. Even after the order passed by the Writ Court in the year 2017, the appellant Department not satisfied and not accepted the same and preferred this intra Court appeal during which period the poor lady also died without even seeing the light of the death-cum-retirement and family pension benefits of the deceased employee for the service rendered by her husband to the Revenue Department of the State of Tamil Nadu for several years.

22. Now the son of the deceased employee and the deceased writ petitioner has been impleaded as one of the respondent in the present appeal, who has already reached 60 years, which has been informed to this Court by the learned counsel appearing for the respondent.



W.A.No.2445 of 2019

23. This kind of situation can never be placed against any person

that too on the family members of the deceased employee of the State Government.

24. The abdication of duty and shirking the responsibility now become a routine affair for the people who are sitting in a position to take a decision quickly to act upon in the interest of public and public good.

25. This is one of the case where because of the attitude on the part of the officials concerned, a poor Government employee's family had been facing the struggle for 36 long years.

26. The quoting of a Government Order i.e., G.O.Ms.No.625 has already been clarified by the learned Judge in the order impugned, despite that the intention seems to be, of the appellant Department, is to see that even a meagre amount by way of family pension shall not go to the hands of the widow of a lower grade Government servant. This kind of attitude instead of being termed as unlawful, arbitrary etc., this Court in one word can explain the same as 'Inhuman'. For such an act on whom the responsibility can be fixed is a question, as by the time in these last



W.A.No.2445 of 2019

36 years, there might have been many number of persons could have occupied the position as Collector, Sub-Collector, D.R.O., R.D.O., Tahsildar etc.

27. However, the fact remains that, the family did not see the fruits in these long 36 years.

28. Therefore we feel that, this case can be taken as a model case by the Government and in order to streamline these kind of issues to settle the pension or family pension, a mechanism can be arrived at of course in tune with either under the existing law or if need arises by making amendment of the existing law.

29. In this context, the existing law pertaining to the service conditions of the Government Servant may not be sufficient or adequate to have such an effective mechanism, therefore the Government may think of making amendment to the existing law and have an effective mechanism to see that, the retirement cum death benefits as well as the pensionary benefits and also the family pension benefits of a deceased Government employee, whatever be the entitlement accordingly, is paid and continued to be paid, within a maximum period of six months. To



W.A.No.2445 of 2019

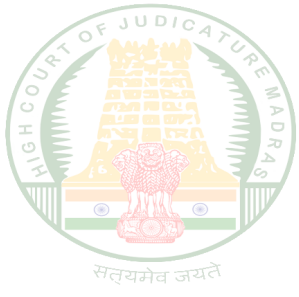
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achieve this goal we believe and expect that the State Government will come forward with a permanent solution by having a Scheme to streamline the System.

30. With the above observations, we are inclined to dismiss this appeal, of course with a cost of Rs.10,000/-, but if we impose such a cost, on that ground itself the appellant Department may further delay the issue by preferring further appeals unwarrantedly using the money from the Government exchequer, therefore we refrain ourselves from imposing such cost and thereby this appeal is dismissed without costs. As a sequel, the benefits as directed by the learned Judge through the impugned order shall be calculated and be paid with arrears to the present 2nd respondent who is the son of the deceased employee as well as the widow of the employee within a period of eight weeks from the date of receipt of a copy of this judgment. Consequently, connected miscellaneous petitions are also dismissed.

[R.S.K., J.] [C.K., J.]
06.10.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
Note : Issue order copy on **06.10.2023**
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WEB COPY



W.A.No.2445 of 2019

R. SURESH KUMAR, J.
and
C.KUMARAPPAN, J.

Sgl

W.A.No.2445 of 2019

06.10.2023