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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.18047 of 2023

Kalyani

... Petitioner

Vs

1. The Additional Director,
Director of Ex-Service Men Welfare,
No.27, Raja Muthiah Road,
Chennai 600 003.
2. The Deputy Director,
Director of Ex-Service Men Welfare,
Near Madurai Railway Station,
Railway Colony,
Madurai District 625 016.
3. Rajeshwari

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to disburse the terminal benefit of petitioner's son namely Subramanian to the petitioner on the basis of the representation, dated 30.06.2023 at the earliest within the time period stipulated by this Court.



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For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.N.Muthu Vijayan (R1,R2)
Special Government Pleader

ORDER

The present writ petition has been filed seeking a direction to the respondents to disburse the terminal benefit of petitioner's son, namely Subramanian to the petitioner on the basis of the representation, dated 30.06.2023 within the time period stipulated by this Court.

2.Heard, Mr.R.Karunanidhi, learned counsel appearing for the petitioner and Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the respondents 1 and 3. Though the name is printed in the cause list for R3, neither the third respondent nor her counsel appeared before this Court. Perused the materials on record.

3.(i).The petitioner's son namely, Subramanian worked as Superintendent of Ex-Service Welfare Department. While in service, he passed away. He was survived by his mother, ie., petitioner, his wife, ie., third respondent and two minor children.



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(ii) It is claimed by the petitioner that during the lifetime of her son, her son and the third respondent have lived separately and several matrimonial cases were pending before various Court. For the treatment of her son's ailment in his liver, the petitioner has incurred several lakhs towards medical expenses and the same was met by way of borrowing money from various persons.

(iii) After the demise of her son, on 30.06.2023, the petitioner sent a detailed representation to the first and second respondents seeking her share in the terminal benefits of her son Subramanian. However, the same was not considered. Hence, this writ petition came to be filed.

4. The learned Special Government Pleader, appearing for the first and second respondents submitted that from the Service Register of the deceased Subramanian, it is seen that he had nominated his wife Ms. Rajaeswari/third respondent to receive his death-cum-retirement benefits and gratuity under Rule 48 of the Tamil Nadu Pension Rules. Hence, the petitioner is not entitled to claim any share in the terminal and pensionary benefits of said Subramanian.



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5.The submission made by the learned Special Government Pleader is not sustainable, since the mother/petitioner, being a senior citizen and one of the four legal heirs of the deceased Subramanian, she is entitled to $\frac{1}{4}^{\text{th}}$ share in the all the terminal and pensionary benefits of her son.

6.In view of the above, this Court hereby direct the first and second respondents to consider the representation made by the petitioner, dated 30.06.2023 and pass appropriate orders to disburse the share of the petitioner in the terminal and pensionary benefits of her son Subramanian, in accordance with law, within a period of twelve (12) weeks, from the date of receipt of a copy of this order.

7.Accordingly, this writ petition stands allowed. There shall be no order as to costs.

11.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM



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L.VICTORIA GOWRI, J.

PNM

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