

Jeyabharatham Vs. The Deputy Inspector General of Police, Technical Services

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Court : Chennai Madurai

Decided On : Oct-03-2016

Judge : M.V. Muralidaran

Appeal No. : WP (MD) No. 3738 of 2013

Appellant : Jeyabharatham

Respondent : The Deputy Inspector General of Police, Technical Services

Judgement :

(Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.C3/8630/2012 dated 17.10.2012 passed by the respondent and quash the same and consequently direct the respondent to pay the petitioner 18% interest per annum with effect from 02.07.1999 in the light of the order in W.P.No.16665 of 2007 dated 29.03.2010 within a time frame.)

1. The petitioner has filed this writ petition for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Na.Ka.No.C3/8630/2012 dated 17.10.2010 passed by the respondent and quash the same and consequently direct the respondent to pay 18% interest per annum with effect from 02.07.1999 in the light of the order in W.P No.1665 of 2007 dated

29.03.2010.

2. That the instant writ petition is filed challenging the impugned order of the respondent dated 17.10.12 and consequential direction, by directing the respondent to pay 18% interest per annum to the petitioner with effect from 02.07.1999 in the light of the order in W.P.No.16665 of 2007 dated 29.03.2010.

3. It is seen from the records that the petitioner's husband was working as head constable in the police Telecommunication Branch at Nakapatinam since 20.06.1992. He was sent to Bandobust duty to Madurai on 27.06.1992. After completion of bandobust duty the petitioner's husband did not come home or he reported for duty on 03.07.1992. Since the petitioner's husband was absent from duty for more than 21 days, he was treated as a deserter by proceeding dated 24.07.1992 and he was also dismissed from the service with effect from 03.07.1992 by an ex-parte departmental proceedings dated 23.11.1993. The petitioner's father lodged a complaint to the Inspector of Police, Kariyapatti and the same was registered in crime No.228/95 as a man missing case. Since the petitioner's husband could not be traced out, the Inspector of Police has issued non-traceable certificate.

4. The further case of the petitioner is that she filed O.A.No.2326/2003 before the Tamilnadu Administrative Tribunal to get pensionary and terminal benefits of her husband. After abolition of the Tamilnadu Administrative Tribunal, the above said O.A was transferred to this Hon ble Court and re-numbered as W.P.No.14665/2007. This Hon ble court was pleased to allow the said writ petition by order dated 29.03.2010. The operative portion of the order is extracted hereunder:

Under the circumstances, the writ petition stands allowed and the impugned order of the respondents stand set aside. No costs. The respondents are directed to process the representation made by the petitioner and grant her family pension with effect from 02.07.1999. The respondents are also directed to pay the other dues payable towards the terminal benefits of the Late.S.Venkatasamy, Head Constable 587 attached to Police Radio Branch. This exercise shall be undertaken within a period of eight weeks from the date of receipt of a copy of this order and

necessary communication should be send to the petitioner in this regard.

5. Despite the order passed in the said writ petition, the respondent has not paid the family pension and other terminal benefits to the petitioner. Hence the petitioner was constrained to send contempt notice on 23.03.2011. Thereafter only the respondent has sent the family pension proposal to the Principal Accountant General by proceedings dated 26.07.2011. The petitioner was paid arrears of family pensionary benefit and she is receiving the family pension. However, the family pension and the arrears paid to the petitioner with a delay. For the undue delay in payment of terminal benefits and family pension, forced the petitioner to send representation to the respondent on 16.08.2012 seeking for interest for the delayed payment of Rs.6,93,000/- (Rupees Six Lash Ninety Three Thousand only). The claim of the petitioner was rejected by the respondent by impugned proceedings dated 17.10.12. Hence the petitioner has come forward with this writ petition.

6. Per contra, the respondent has contended that the full pledged pension proposal of the petitioner was received to their office only on 22.09.2010 and immediately thereafter an amount of Rs.60,000/- towards family benefit fund was paid to the petitioner on 12.01.2011. As the service book of the petitioner s husband namely Thiru.Venkatasamy Head Constable, 587 was not traceable and all the efforts to trace out the same was ended in futile. A duplicate service book was created on the basis of the available records and for that this respondent office had required 10 months time. Thereafter the pension proposal was sent to the Principal Accountant General on 26.07.2011 for issuance of DCRG authorization and sanctioning of family pension. For the above said reason, a small delay has occurred and the same was not wantonly caused.

7. I have carefully considered the rival case. On going through the entire materials available on records, admittedly there was a delay in paying the terminal benefits and family pension proposal of the petitioner and the same has been explained by the respondent in their counter affidavit. However, in the case of payment of terminal benefits and sending pension proposal, the authorities should act in a letter and spirit manner. In this case, the whereabouts of the petitioner s husband

could not be traced out. Further for getting the terminal benefits and family pension, the petitioner was forced to approach the Tamilnadu Administrative Tribunal and this Court. The petitioner having lost her husband was made run from Pillar to Post. When the respondent is well known that this Court by order in W.P.No.14665 of 2007 dated 29.03.2010 that the petitioner should pay the pensionary benefits but purposely it was not paid for the reasons best known to them. Therefore, the respondent should pay the interest at the rate of 18% per annum with effect from 02.07.1999. Hence, the impugned order is liable to be set aside.

8. In the result, this writ petition is disposed of by directing the petitioner to give fresh representation within a period of 15 days from the date of receipt of a copy of this order and the respondent is hereby directed to consider her representation and to pass orders within a period of three months thereafter. No costs.

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