

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2021

:CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.15078 of 2021

S.Revathi

Petitioner

-VS-

The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
No.37, Royapettah High Road,
Royapettah, Chennai- 600 014.

Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondent to release the Employees Provident Fund Pension to the petitioner as per the nomination made by the deceased employee viz., petitioner son under the Employees Provident Fund Scheme from the date of death of the deceased employee on 21.02.2015 without insisting the particulars of the petitioner's husband.

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For Petitioner : Mr.Balamurualikrishnan
for Mr.N.Saravanan

For Respondent : Mr.K.Ramu

ORDER

The petitioner has come forward with this Writ petition seeking direction to the respondent to release the Employees Provident Fund Pension to the petitioner as per the nomination made by the deceased employee viz., petitioner's son under the Employees Provident Fund Scheme from the date of death of the deceased employee on 21.02.2015, without insisting the particulars of the petitioner's husband.

2. The case of the petitioner is that the petitioner got married to one Sankaran in the year 1988 and from out of their wedlock, three children were born to them and thereafter the husband of the petitioner viz., Mr.Sankaran deserted the family in the year 2005. It is further stated that the first son of the petitioner viz., Karthikeyan joined for work in M/s. CSS Corp Private Limited at Ambattur, Chennai and died in a road accident on 21.02.2015. It is further stated that the petitioner being the mother of the deceased approached the EPF authorities through the employer for disbursement of pension, in view of her capacity as a nominee and, but the authorities have not released the pension, as the details of the husband of the petitioner has not been furnished. Therefore, the petitioner has come forward with this Writ Petition seeking for the aforesaid relief.

3. Mr.Ramu, the learned counsel appearing for the respondent Department submitted that in terms of 16 (5)(aa) of the Employees Pension Scheme 1995 , in case of non nomination, the father of the deceased would be entitled to get full pension and in the event of death of the father, mother would be entitled to pension till she survives and whether other dependants are entitled to or not is not an issue in the present Writ Petition. He further submitted that the writ petitioner should have filed FIR pertaining to the complaint given by her on account of missing of her husband and if his whereabouts are not found, she ought to have obtained certificate from the police, thereafter produce the same in order to enable the EPF authorities to process the papers and extend pensionary benefits to the petitioner. Since, the same has not been done, EPF will not be in a position to release any amount against the provisions of pension scheme 1995.

4. In reply, Mr.Balamuralikrishnan learned counsel appearing for the petitioner submitted that the husband of the petitioner deserted the family before 15 years and the police may not entertain the complaint at this distance of time. Hence, this Court may direct the respondent to release the EPF Pension to the writ petitioner.

5. Heard both sides. Perused the records. The only issue whether the mother of the deceased would be entitled to pension in terms of the Employees Pension scheme.

6. For the sake of convenience, clause No.16(5)(aa) of the Employees Pension

Scheme 1995 is extracted below:

“16(5)(aa) If a member dies leaving behind no spouse and/an eligible child falling within the definition of family and no nomination by such deceased member exists, the widow pension shall be paid under sub-clauses (i) and (ii) of clause (a) of sub-paragraph 2 either to dependent father or dependant mother as the case may be. On grant of pension to such dependant father and in the event of death of the father pensioner, the admissible pension shall be extended to the surviving mother lifelong.”

7. It is no doubt true that the husband of the petitioner deserted the house of the petitioner and his whereabouts are not known. The first son of the petitioner viz., Karthikeyan who was employed in M/s.CSS Corp Private Limited died in an accident and the petitioner being the mother is entitled to PF benefits.

8. A reading of the provisions referred to supra would make it clear that the father of the deceased is entitled to pension and in the event of demise of the father, mother wife is entitled to pension till she is alive. Since, the deceased is a Bachelor, the writ petitioner ought to have given the complaint on missing of her husband and ought to have obtained a certificate from the police, in order to get pensionary benefits, but the same has not been done. Hence, in order to give quietus to the matter, the Writ petitioner may be permitted to give complaint to the concerned police with regard to the missing of her husband, within a period of one month from the date of receipt of a copy of this order and the concerned Police officials is expected to accept the complaint and

furnish CSR to the petitioner. Further, the police authorities may verify and issue certificate as to whether the person is alive or not traceable, so that the monetary benefits may be extended to the petitioner by the Employees Provident Fund Organisation. On a production of said certificate, writ petitioner who is the mother of the deceased shall be extended with the pensionary benefits, as the narrow interpretation of Section 16 (5)(aa) cannot be given, more so, in the peculiar circumstances of the case.

9. In such view of the matter, this Court directs the respondent to pay 50% of the pension amount to the writ petitioner, the mother of the deceased till she obtains certificate from the police and on such production of certificate and by furnishing indemnity bond, remaining 50% may be released to the Writ Petitioner.

10. This Writ Petition is ordered accordingly. No costs.

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28.07.2021

Index: Yes / No
Speaking order / Non speaking order
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S.VAIDYANATHAN,J.,

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To

The Regional Provident Fund Commissioner
Employees Provident Fund Organisation,
No.37, Royapettah High Road,
Royapettah, Chennai- 600 014.



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