

(2010) 07 MAD CK 0274

In the Madras High Court

Case No : Writ Petition No. 45663 of 2006 (T) and O.A. No. 2276 of 2000

L. Vimal Devakumar

APPELLANT

Vs

The District Project Nutrition Officer

RESPONDENT

Date of Decision : 27-07-2010

Acts Referred:

Citation : (2010) 07 MAD CK 0274

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : P. Mohan Raj, for the Appellant; S. Gopinathan, AGP, for the Respondent

Final Decision : Allowed

Judgement

T. Raja, J.—The petitioner's mother Late Jeyaragini, while serving as Child Welfare Organiser in Thirumalai Centre, Chetpet Block, Thiruvannamalai District, expired on 17.09.1999. After rendering 17 years of service in the office of the respondent, in November, 1996, she suffered a Paralytic attack and was bed-ridden. It is also submitted that the petitioner submitted her leave application during the said period along with medical certificate and subsequent to that, she died on 17.09.1999. Therefore, after the death of the petitioner's mother, the petitioner being a daughter of Late Jeyaragini, presented a representation to the District Project Nutrition Officer, Thiruvannamalai, claiming the benefits under the Family Benefit Fund Scheme on account of the death of her mother, on the ground that the petitioner's mother was a member of the said scheme, as she was regularly contributing to the Family Benefit Fund and the petitioner being only legal heir of the deceased mother, she further made a request for reimbursement, which is due under the Family Benefit Fund Scheme. The District Project Nutrition Officer, Thiruvannamalai, also sent a reply to the petitioner in Na.Ka. No. 4163/A/98, dated 17.09.1999, seeking certain clarifications with regard to the petitioner's claim and also informing the petitioner that on receipt of the clarifications, orders should be issued to pay the Family Benefit Fund to

the petitioner. However, the impugned order came to be passed by the District Project Nutrition Officer, Thiruvannamalai, on 12.10.1999, stating that the petitioner's mother was not on duty from 05.12.96 to 16.09.97 and she was also absent for 286 days without intimation and on that basis, it was mentioned that there was no provision to pay the Family Benefit Fund amount to the petitioner. Now, the said order is under challenge.

2. Learned Counsel appearing for the petitioner submits that though the petitioner's mother suffered paralytic attack and subsequently died on 17.09.1999, she has submitted her leave application along with medical certificate, even before the death, claiming grant of leave to the petitioner's mother. But, subsequently, the petitioner's mother passed away. Immediately after she passed away, the petitioner being a only daughter and legal heir of the deceased mother, presented her application seeking benefit of the disbursement of the benefit under the Family Benefit Fund Scheme, which was regularly contributed by the petitioner's mother. The respondent initially sought for some clarifications by informing the petitioner that the benefit accrued under the Family Benefit Fund Scheme, would be given to the petitioner, but after sometime, wrongly dismissed the claim of the petitioner by way of the impugned order. Therefore, the learned Counsel appearing for the petitioner submits that as the respondent has not mentioned, whether the respondent has taken any action for not granting the benefit accrued under the Family Benefit Fund Scheme, they cannot deny the said benefit, since the petitioner's mother has regularly contributed the Family Benefit Fund for the last 17 years of service.

3. On the other hand, learned Counsel appearing for the respondent submits that the petitioner remained absent for about 286 days and subsequently died due to Paralytic attack on 17.09.1999. In that view of the matter, the refusal to reimburse the benefit under the Family Benefit Fund Scheme, cannot be found fault with. On that basis, prayed for dismissal of the writ petition.

4. Heard the learned Counsel appearing on either side and perused the materials available on record.

5. The petitioner's mother Late Jeyaragini, while serving as Child Welfare Organiser in Thirumalai Centre, Chetpet Block, Thiruvannamalai District, expired on 17.09.1999. Before the death took place, the petitioner's mother immediately after suffering from the above said disease, submitted a detailed representation along with medical certificate for grant of leave. It was not denied nor the respondent filed any counter to show that the service of the petitioner was terminated or any legal action was taken for her unauthorised absence. Therefore, it goes to show that the petitioner having contributed to the Family Benefit Fund during her 17 years of service, she is entitled to get back the same benefit.

Accordingly, the writ petition is allowed by setting aside the impugned order passed by the respondent with a further direction to the respondent to disburse

the amount due to the petitioner within a period of eight weeks from the date of receipt of a copy of this order under the Family Benefit Fund on account of the death of the petitioner's mother. No Costs.