(2004) 09 MAD CK 0108

In the Madras High Court

Case No : Writ Petition No. 21172 of 2003

Unnamalai APPELLANT

Vs

Bharat Sanchar Nigam Ltd. RESPONDENT

Date of Decision : 21-09-2004

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2005) WritLR 713

Hon'ble Judges : A.K. Rajan, J

Bench : Single Bench

Advocate : K. Babu, for the Appellant; S. Udayakumar, ACGSC, for the Respondent

Judgement

A.K. Rajan, J.—The prayer in this writ petition is for the issuance of a writ of Mandamus, to direct the respondents to disburse the terminal

benefits accrued in petitioner''s son''s account amounting to 50% of the amount under death cum gratuity and 25% of the amount under group

insurance scheme.

2. This petition has been filed for the terminal benefits. Clause-5 of the GPF Rules reads as follows:

5.Nominations:

(1) A Subscriber shall, at the time of joining the Fund, send to the Accounts Officer through the Head of Office a nomination conferring on one or

more persons the right to receive the amount that may stand to his credit in the Fund in the event of his death, before that amount has become

payable or having become payable has not been paid;

Provided that where a subscriber is a minor, he shall be required to make the nomination only on his attaining the age of majority;

Provided further that a subscriber who has a family at the time of making the nomination shall make such nomination only in favour of a member or

members of his family:

Provided further that the nomination made by the subscriber in respect of any other provident fund to which he was subscribing before joining the

Funds shall, if the amount to his credit in such other fund has been transferred to his credit in the Fund, be deemed to be a nomination duly made

under this rule until he makes a nomination in accordance with this rule.

(2) If a subscriber nominates more than one person under sub-rule (1), he shall specify in the nomination the amount or share payable to each of

the nominees in such manner as to cover the whole of the amount that may stand to his credit in the Fund at any time.

(3) Every nominations shall be made in the Form set forth in the First Schedule.

As per this Clause, there can be more than one nominee. Admittedly, the son of the petitioner nominated this petitioner.

3. When the person nominated for DCRG, 50% of the DCRG shall go to the mother and 25% shall go to the wife and 25% will be shared equally

between the two daughters of the petitioner. Similarly 50% of the GPF shall go to the mother and 50% has to be shared by wife and two

daughters. Thus it appears that 50% has been given to the mother and 50% has been given to the wife and two daughters. Though the parties are

Hindus, as per the Hindu Succession Law, they are entitled to share equally the properties of the father or son as the case may be. But, this

method of allowing nominations to be made by the employee. This method of dividing the share to the mother, wife and daughters resulted in

unequal treatment. This Court is of the view that the Rules may be changed specifying the upper limit for such nominations, thereby wife shall get at

least equal share along with the mother and daughters. The present case resulted hardship to the wife as well as the daughters. This Court expect

the authorities to modify the Rules so that the interest of all the dependants of employees will be protected.

4. The main prayer is that the nominee should get more percentage and the respondent also prepared to disburse the amount provided a request is

made to the Superintending Engineer. But, according to the respondent no request has been made to the Senior Subdivisional Engineer so far.

5. In the result, the writ petition is disposed of with a direction to the petitioner that she shall make the request to the Senior Subdivisional Engineer

and on such request, the amount shall be disbursed as per the nominations as expeditiously as possible but within two months from the date of such

request. No costs.

