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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2026

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A.No.112 of 2023

Mrs.A.Philominal,
W/o.Late A.Padmanabhan,
6/11B, Kallanginivilai, Chemmuthail,
Tholayavatoom Post,
Kanyakumari District – 629 157. ... Appellant

Vs.

1.The Chairman,
The Tamil Nadu Electricity Board,
N.P.K.R.R.Malaigai, 800, Anna Salai,
Chennai – 600 002.

2.The Secretary,
The Tamil Nadu Electricity Board,
N.P.K.R.R.Malaigai, 800, Anna Salai,
Chennai – 600 002.

3.The Chief Engineer (Personnel),
The Tamil Nadu Electricity Board,
N.P.K.R.R.Malaigai, 800, Anna Salai,
Chennai – 600 002.
4.Chief Internal Audit Officer,
Board Office Audit Branch,

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The Tamil Nadu Electricity Board,
N.P.K.R.R.Malaigai, 800, Anna Salai,
Chennai – 600 002.

5.The Superintending Engineer,
Kanyakumari Electricity Distribution Circle,
Parthipuram, Nagercoil – 629 003. ... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 09.06.2022 made in W.P.No.7001 of 2014.

APPEARANCE OF PARTIES:

For Appellant : Mrs.V.Pushpa.

For Respondents : Mr.K.Purushothaman, Standing Counsel.

J U D G M E N T

(Judgment of the Court was delivered by Dr. A.D. Maria Clete, J)

The present Writ Appeal arises out of W.P.No.7001 of 2014 filed by the appellant. In October 2009, the appellant, for the first time, sent a letter seeking family pension on account of the death of her alleged husband Late A.Padmanabhan, who was employed as a Foreman in the Tamil Nadu Electricity Board (now TANGEDCO) under the Kanyakumari Distribution Circle.

2.In her letter dated 15.02.2010, the appellant stated that she was the second wife of Late A.Padmanabhan, who had retired from service as Foreman First Grade on 30.09.1988 and passed away five years later, on 07.09.1993. She further

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mentioned that Tmt.Rajammal was the first wife of the said A.Padmanabhan, who had subsequently died on 05.03.2007. After the demise of the first wife, there remained four legal heirs to Late A.Padmanabhan, the first among them being the appellant herself, and the other three being her sons born through the said Padmanabhan. The appellant claimed that, as the second wife and legal heir of Late A.Padmanabhan, she was entitled to family pension. She submitted that she had applied for the same in 2009, enclosing all requisite documents. However, her application was returned with an instruction to approach the office of the Superintending Engineer for further action regarding the claim. It was on this basis that she had addressed the present representation. Upon receipt of the said representation, the fifth respondent, by letter dated 25.09.2012, issued the following reply:

> "பார்வையில் கண்ட கடிதம்படி தாங்கள் தலைமை அகநிலை தணிக்கை அதிகாரிக்கு கொடுத்த விண்ணப்பம் தொடர்பாக பெறப்பட்ட பதிவின் சாராம்சம் கீழே தெரிவிக்கப்படுகிறது. வாரிய குடும்ப ஓய்வூதியதாரர்களின் விதிகளின்படி முதல் மனைவி உயிருடன் இருக்கும் பொழுது இரண்டாவது மனைவிக்கு குடும்ப ஓய்வூதியம் வழங்க இயலாது என்றும் முதல் மனைவி உயிருடன் இருக்கும் பட்சத்தில் திரு.பத்மநாபன் முகவர் (ஓய்வு) இறப்பு, 07.09.1993

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அவர்கள் இரண்டாவது திருமணம் செய்துள்ளதால் தங்களை சட்டப்படியான மனைவியாக ஏற்றுக்கொள்ள முடியாது எனவும் குடும்ப ஓய்வூதியம் அனுமதிக்க முடியாது என்பதை தெரிவித்துக் கொள்ளப்படுகிறது."

3.Aggrieved by the rejection of her claim, the appellant filed W.P.No.7001 of 2014 i.e two years after the rejection communicated by the 5th respondent. It must be noted that in paragraph 10 of her affidavit filed in support of the writ petition, the appellant relied upon the judgment and decree dated 28.02.2005 passed by the Sub Court, Kuzhithurai in O.S. No. 34 of 2004. In that suit, where Rajammal was the plaintiff, the trial court had held that Rajammal failed to prove the validity of her marriage with A.Padmanabhan, and it concluded that it was the appellant who was the legally wedded wife. The court further held that the appellant and her three sons alone were entitled to succeed to the properties of Late Padmanabhan.

4.The learned Single Judge, by order dated 09.06.2022, dismissed the writ petition. It was observed that the Tamil Nadu Electricity Board (TNEB) was not a party to the civil suit relied upon by the appellant. Based on the records available with the TNEB, the learned Judge noted that the appellant was identified as the second wife of Late A.Padmanabhan, and that her marriage to him was solemnised

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in July 1979, during the subsistence of his first marriage with Tmt.Rajammal, who passed away only in 2007. Consequently, the second marriage was held to be void in law, and the appellant could not be treated as the legally wedded wife for the purpose of claiming family pension. The learned Judge further noted that, following Padmanabhan's death in 1993, family pension had already been sanctioned in favour of Rajammal and continued to be paid to her until her demise in 2007. In view of these facts, the appellant's claim for family pension was found to be unsustainable. It was also recorded that the civil suit in O.S.No.34 of 2004, filed by Rajammal, was one for permanent injunction concerning possession of properties, and did not involve an adjudication on the marital status of the appellant.

5.However, when the writ appeal came up for admission, reference was made by the learned counsel for the appellant to the Judgment in O.S.No.34 of 2004, and specifically to paragraph 19 therein, wherein the following finding was recorded:

> "*19. பிரதிவாதிகள் தரப்பில் தாக்கல் செய்யப்பட்டுள்ள சான்றாவணங்கள் பரிசீலனை செய்யும்போது வாதியானவர் தன்னுடைய குறுக்கு விசாரணையில் திருமணத்திற்கு முன்பும் பின்பும் நாகர்கோவிலில்*

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வசித்து வந்ததாக சாட்சியம் அளித்துள்ளார். வாதி தரப்பில் வாதியும் பத்மனாபனும் கணவன் மனைவியாக வாழ்ந்து வந்ததற்கான எத்தகைய ஆவணங்களும் தாக்கல் செய்யாததாலும் பிரதிவாதிகள் தரப்பில் தாக்கல் செய்யப்பட்டுள்ள ஆவணங்கள் இருந்து 4ஆம் பிரதிவாதியும் பத்மனாபன் என்பவரும் கணவன் மனைவியாக வாழ்ந்து வந்ததாக அனுமானம் இருப்பதாக இந்நீதிமன்றம் கருதுவதால் 4ஆம் பிரதிவாதி இறந்துபோன பத்மனாபனின் சட்டப்படியான மனைவி என்று இந்நீதிமன்றம் எழுவினா 1க்கு விடை காண்கிறது."

6.Based on the above, it was argued that the marriage between the appellant and Late A.Padmanabhan was solemnised in 1979, while Rajammal passed away only in 2007, and therefore, the learned Single Judge had erred in holding that the second marriage was invalid in the eye of law. On the contrary, reliance was placed on the findings of the learned Sub-Judge in O.S.No.34 of 2004, particularly while answering the first issue, wherein it was held that there was no valid marriage between Rajammal and Late Padmanabhan, and that the appellant was the legally wedded wife. However, in our view, such a conclusion is legally impermissible, and the appellant's claim for family pension cannot be entertained. Notably, the

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appellant herself did not base her claim for family pension in her representation to the authorities on the decree passed in O.S.No.34 of 2004. Instead, in her representation dated 15.02.2010, she expressly described herself as the second wife of Late A.Padmanabhan and relied upon the legal heirship certificate dated 27.09.2009, wherein Tmt. Rajammal was acknowledged as the first wife of the deceased.

7.It is an admitted fact that Late A.Padmanabhan retired from service on 30.09.1988 and passed away on 07.09.1993. At the time of his death, both Tmt. Rajammal and the appellant, Tmt. Philomena, were alive. Although the appellant claims to have married Padmanabhan in July 1979, she did not make any claim for family pension immediately after his death. On the other hand, Tmt. Rajammal obtained a succession certificate from the District Court on 25.08.1998. The appellant made her first claim for family pension only after the death of Rajammal, initiating her request in 2009 – more than sixteen years after the cause of action arose upon the death of Padmanabhan in 1993. Consequently, the appellant's claim for family pension, made in 2009 and followed by the writ petition filed in 2014, is clearly barred by delay and laches.

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8.As already noted, although the cause of action for the appellant to claim family pension arose upon the death of Late Padmanabhan in 1993, she neither pursued the claim nor approached any legal forum at that time. Instead, relying on an observation made in a civil court decree passed in 2005 – in a suit to which the TNEB was not a party – she waited until after the death of Tmt. Rajammal in 2007 to assert her claim. Even then, her first representation was made only in 2009, and notably, she described herself as the second wife of the deceased. In this context, it is relevant to refer to the judgment of the Hon'ble Supreme Court in ***C.Jacob v. Director of Geology, reported in (2008) 10 SCC 115***, wherein the Court declined to entertain delayed claims for pension made long after the cause of action had arisen. The Court observed as follows:-

> "6...the ex-employee files an application/writ petition before the Tribunal/High Court seeking a direction to the employer to consider and dispose of his representation. The Tribunals/High Courts routinely allow or dispose of such applications/petitions (many a time even without notice to the other side), without examining the matter on merits, with a direction to consider and dispose of the representation. The courts/tribunals proceed on the assumption, that every citizen deserves a reply to his representation. Secondly they assume that a mere direction to consider and dispose of the representation does not involve any `decision' on rights and

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obligations of parties. Little do they realize the consequences of such a direction to `consider'. If the representation is considered and accepted, the ex-employee gets a relief, which he would not have got on account of the long delay, all by reason of the direction to `consider'. If the representation is considered and rejected, the ex-employee files an application/writ petition, not with reference to the original cause of action of 1982, but by treating the rejection of the representation given in 2000, as the cause of action. A prayer is made for quashing the rejection of representation and for grant of the relief claimed in the representation. The Tribunals/High Courts routinely entertain such applications/petitions ignoring the huge delay preceding the representation, and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches gets obliterated or ignored.

7. Every representation to the government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the department, the reply may be only to inform that the matter did not concern the department or to inform the appropriate department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such

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representations, cannot furnish a fresh cause of action or revive a stale or dead claim."

On this short ground alone, without delving into the other issues, the appellant's writ petition is liable to be dismissed.

9.In any case, the right to claim family pension arose on 07.09.1993, upon the death of Late Padmanabhan. If the appellant had been the lawfully wedded wife, she ought to have asserted her entitlement to the pension at that time. However, she made no such claim and instead allowed Tmt. Rajammal – who was recognised as Padmanabhan's wife – to receive the family pension without objection, and to continue receiving it until her death on 05.03.2007. It must be emphasised that under the applicable service rules and regulations, there is no provision that contemplates the entitlement of a second wife to receive any pensionary benefits from the Government or a statutory board while the first wife is still alive.

10.It is now necessary to examine whether a claim for family pension by a second wife can be entertained by the Board. A Division Bench of this Court, while considering similar claims made by second wives, has consistently held that such

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claims are not legally sustainable. In ***R.Rajathi v. The Superintending Engineer and another [W.A. No.977 of 2017, dated 05.06.2018; (2018) 5 MLJ 385]***, it was categorically held that a second wife is not entitled to family pension. This view has been reiterated by other Division Benches as well, including in ***The State of Tamil Nadu and others v. Tmt. G. Kanagavalli [W.A. No. 664 of 2019, dated 16.07.2019], and R. Kalavathy v. The Accountant General and another [W.A. No. 2376 of 2021, dated 03.10.2024].***

11.The same learned Judge who dismissed the present writ petition under appeal had also dismissed a similar writ petition in ***Santhi v. The Secretary to Government, Government of Tamil Nadu & Others [W.P. No. 32556 of 2014, dated 15.07.2022].*** In that case, the learned Judge, while dealing with the applicable Government Pension Rules, held as follows:-

> " In view of the admitted fact in the present case that the writ petitioner married the deceased employee as second wife during the lifetime of the first wife, the order of rejectino passed by the respondents is in consonance with the Tamil Nadu Pension Rules in force and there is no infirmity as such."

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12.If the appellant had submitted her claim at the relevant time – either in July 1979, when the marriage with A. Padmanabhan is said to have taken place, or in September 1993, upon his demise – TANGEDCO would have been in a position to conduct an appropriate inquiry to ascertain who the lawfully wedded wife was. It would have also enabled the authorities to verify whether the declaration made by Padmanabhan in their official records, recognising Rajammal as his wife, was correct and reliable. Having failed to assert her claim at the appropriate time, the appellant cannot now, years later, rely on a finding rendered in a civil suit – particularly when TANGEDCO was not a party to that suit – to claim family pension, especially when her own representation described her as the second wife.

13.The basis of the appellant's representation to the respondents seeking family pension is entirely different from the grounds urged in the writ petition. In her representation, the appellant explicitly claimed entitlement to family pension in her capacity as the second wife of Late A.Padmanabhan. However, in the writ petition, she sought to rely on a civil court decree to establish her status as the legally wedded wife. The impugned order of rejection issued by the 4th respondent was based solely on the contents of her representation, and not on any adjudication

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of her marital status by a competent court in a proceeding to which the employer was a party.

14.It must be stated that family pension is not a benefit that can be claimed successively by multiple wives, as though in a relay race where the baton is passed from one to another. Allowing such claims would not only defeat the very purpose of granting family pension but would also undermine the public policy objective underlying the statutory recognition of monogamy. Accordingly, the writ appeal, W.A. No. 112 of 2023, is dismissed. However, there shall be no order as to costs.

(R.S.K., J) **(A.D.M.C., J)**

22.01.2026

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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

1.The Chairman,
The Tamil Nadu Electricity Board,
N.P.K.R.R.Malaigai, 800, Anna Salai,
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The Tamil Nadu Electricity Board,

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