



W.P(MD)No.15263 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2026

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.15263 of 2023

and

W.M.P(MD)No.12873 of 2023

R.E.Stephen

... Petitioner

Vs

The Labour Assistant Commissioner,
Office of Social Security Scheme,
Madurai District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent's impugned order in Na.Ka.No.254/19 dated 12.06.2023 and quash the same as devoid of merits and consequently direct the respondent to grant monthly pension regularly as per the scheme within the period as stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen

For Respondent : Ms.K.R.Shiva Shankari
Counsel for State



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ORDER

This Writ Petition has been filed challenging the impugned order dated 12.06.2023 and consequently seeking a direction to the respondent to sanction and disburse the monthly pension to the petitioner regularly in accordance with the Tamil Nadu Construction Workers Welfare Board Pension Scheme within a time frame to be stipulated by this Court.

2.The learned counsel appearing for the petitioner submitted that the petitioner had been working as a mason for several years and was a registered member of the Tamil Nadu Construction Workers Welfare Board. Owing to his advancing age and ill health, he discontinued his avocation as a mason. On attaining the age of superannuation, he submitted an application on 09.03.2018, along with the necessary documents, seeking sanction of monthly pension of Rs.1,000/- under the Tamil Nadu Construction Workers Welfare Board Pension Scheme. Upon verification of the records, the respondent sanctioned a monthly pension of Rs.1,000/- to the petitioner by proceedings dated 27.04.2018.



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3.The learned counsel further submitted that the petitioner's wife, Leema Rose, was employed as a Gardener in Saint Justin's College of Education, Kamarajar Salai, Madurai. She passed away on 25.07.2020 while in service due to ill health. Thereafter, the petitioner became entitled to and has been receiving family pension consequent upon the death of his wife. However, the respondent, by the impugned order dated 12.06.2023, directed recovery of the pension already paid to the petitioner on the ground that he was receiving two pensions, namely, family pension consequent upon the death of his wife and pension under the Tamil Nadu Construction Workers Welfare Board Scheme, by placing reliance upon Section 2(10) of the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982 (hereinafter referred to as "the Act"). Challenging the said order, the present Writ Petition has been filed.

4.The learned counsel appearing for the petitioner further submitted that the Tamil Nadu Construction Workers Welfare Board has been constituted to provide social security benefits to construction workers



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engaged in the unorganised sector. The petitioner, being a registered member of the Welfare Board and having made the requisite contributions, became entitled to receive pension upon attaining the age of superannuation. Accordingly, the respondent rightly sanctioned monthly pension with effect from 27.04.2018.

5.It is further submitted that Section 2(10) of the Act merely defines the expression "manual worker" and excludes from its ambit a person who is entitled to the benefits under the Employees' State Insurance Act or the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The said provision has no application to the facts of the present case. The petitioner's wife was not a beneficiary under either the Employees' State Insurance Act or the Employees' Provident Funds and Miscellaneous Provisions Act. The family pension received by the petitioner after the demise of his wife is entirely different in nature and cannot be equated with the pension payable under the Welfare Board Scheme. Therefore, there is no



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statutory prohibition against the petitioner receiving both the family pension and the Welfare Board pension. It is also submitted that there was neither any misrepresentation nor suppression of facts on the part of the petitioner while obtaining the pension under the Welfare Board Scheme. Hence, the impugned recovery proceedings are wholly unsustainable in law.

6.Per contra, the learned counsel for State appearing for the respondent submitted that although the petitioner's wife was not covered under the Employees' State Insurance Act or the Employees' Provident Funds and Miscellaneous Provisions Act, the petitioner is receiving family pension from the Government consequent upon her demise. According to the learned counsel for State, the petitioner cannot simultaneously receive pension from two different sources, and therefore, the respondent rightly passed the impugned order directing recovery. She accordingly prayed for dismissal of the Writ Petition.



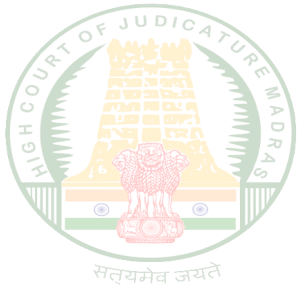
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7.This Court has carefully considered the rival submissions made on either side and perused the materials placed on record.

8.Admittedly, the petitioner is a registered member of the Tamil Nadu Construction Workers Welfare Board and became entitled to pension under the Welfare Board Scheme by virtue of his membership, contributions and attainment of the prescribed age. The family pension received by the petitioner is not on account of his own employment but is a statutory benefit arising out of the service rendered by his deceased wife. The two benefits arise under different enactments, operate in distinct fields and are intended to achieve different objects.

9.The reliance placed by the respondent on Section 2(10) of the Act is wholly misconceived. The said provision merely defines the expression "manual worker" and excludes from its ambit persons who are themselves entitled to benefits under the Employees' State Insurance Act or the Employees' Provident Funds and Miscellaneous Provisions Act. The



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petitioner does not fall within the said exclusion. The family pension received by him consequent upon the demise of his wife cannot be construed as a disqualification for receiving pension under the Welfare Board Scheme. In the absence of any specific statutory prohibition, the respondent was not justified in directing recovery of the pension already sanctioned to the petitioner.

10.It is also not the case of the respondent that the petitioner obtained the pension by practising fraud, misrepresentation or suppression of material facts. Therefore, the recovery proceedings initiated after several years of sanction of pension are arbitrary and unsustainable.

11.In view of the above, the impugned order dated 12.06.2023 is liable to be set aside and is accordingly set aside. The respondent is directed to restore the petitioner's monthly pension under the Tamil Nadu Construction Workers Welfare Board Pension Scheme and continue to disburse the same regularly in accordance with law. If any amount has



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already been recovered pursuant to the impugned order, the same shall be refunded to the petitioner within a period of eight (8) weeks from the date of receipt of a copy of this order.

12. Accordingly, the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes / No
Index : Yes / No
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To

The Labour Assistant Commissioner,
Office of Social Security Scheme,
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M.DHANDAPANI, J.

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