



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2021

CORAM :

**The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM
AND
The Hon'ble Mrs.JUSTICE S.ANANTHI**

W.A.(MD) No.782 of 2021

M.Mangaleswari

... Appellant/Petitioner

Vs

1. The Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Fort St.George, Chennai - 600 009.

2. The District Collector,
Ramanathapuram District,
Ramanathapuram.

3. The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

... Respondents/Respondents

Prayer in WP(MD)No.20290/2018:

Writ Petition is filed under Article 226 of Constitution of India, praying this court To Issue a Writ of Mandamus, directing the 2nd respondent consider my representation dated 02-02-2018.

PRAYER: Appeal under Clause 15 of the Letters Patent, against the order dated 25.09.2018, passed in W.P.(MD) No.20290 of 2018.

For Appellant : Mrs.J.Bala Meenakshi

For Respondents : Mr.K.P.Krishnadoss,
Spl.Govt.Pleader



JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mrs.J.Bala Meenakshi, learned Counsel appearing for the appellant and Mr.K.P.Krishnadoss, learned Special Government Pleader appearing for the respondents.

2. This appeal filed by the appellant is directed against the order dated 25.09.2018 in W.P(MD).No.20290 of 2018. The said writ petition was filed for innocuous relief for consideration of the representation submitted by the appellant to the second respondent. A representation was to take into consideration 50% of the service rendered by the appellant's late husband, who was working as a night watchman for the purpose of calculating the pensionary and other monetary benefits. The appellant's husband passed away on 01.10.2016 in harness and he had been working as a night watchman in the office of the Tahsildar, Ramanthapuram District from 22.08.1990 and subsequently, posted in the office of the Tahsildar, Mudukulathur. Thereafter transferred to other offices in Ramanathapuram District. The service of the appellant's husband was regularized on 29.11.2013. Since he had died in harness on 01.10.2016, from date of regularisation the appellant's husband having not rendered ten years of service, the appellant was not granted pensionary benefits. This insisted the appellant to give a representation dated 02.02.2018 and since it was not considered, writ petition was filed. The writ petition was dismissed at the admission stage by referring to amendment Rules 11(4) of the Tamilnadu Pensionary Rules, 1978.

3. The case before the Writ Court was to consider the representation and regulating 50% of the service rendered by the appellant's husband. This prayer was predicated on the fact that the appellant's husband was regularized after a period of 23 years of rendering service as a night watchman on temporary basis/consolidated pay.

4. In our considered view, the respondents should be permitted to take a decision in the matter, more particularly, considering the facts of the case. The appellant not knowing the result of the earlier writ petition, through the present counsel had filed another writ petition before this Court in W.P(MD).No.284 of 2020, for taking necessary steps to grant family pension by considering the representation dated 19.12.2019. The learned Writ Court by order dated 05.02.2020, disposed of the writ petition by directing the District Collector, Ramanathapuram District, to consider the representation which has been rejected by the District Collector by order dated 29.12.2020, solely on the ground that the earlier writ petition filed by the appellant in W.P(MD).No.20290 of 2018



was dismissed on 25.09.2018. This appeal is directed against the said order.

5. After elaborately hearing the learned Counsel for the appellant as well as the learned Special Government Pleader, we are of the view that the District Collector, Ramanathapuram, must take an independent decision with regard to the matter since the appellant pleads that the late husband was dealt with unreasonably and was retained as temporary hand for over 23 years and regularized only on 29.11.2013 and died in harness on 01.10.2016. Therefore, we are inclined to interfere with the impugned order dated 25.09.2018, as well as inclined to set aside the order passed by the District Collector, Ramanathapuram, in Na.Ka.H2/5190/2019 dated 29.12.2020.

6. The learned Special Government Pleader pointed out that the order dated 29.12.2020 is not the subject matter of this appeal. We rejected the said submission of the learned Special Government Pleader for more than one reason. Firstly, we have set aside the order passed in W.P(MD).No.20290 of 2018 dated 25.09.2018, which is impugned in this appeal. By relying upon the said order, the District Collector has rejected the representation of the appellant by passing order dated 29.12.2020. Therefore, if the order in the writ petition has been set aside, consequently the order passed by the District Collector dated 29.12.2020 also deserves to be set aside.

7. For the above reasons, the Writ Appeal is allowed. The order passed in the writ petition is set aside. Consequently, the order passed by the District Collector, Ramanathapuram District, in Na.Ka.H2/5190/2019 dated 29.12.2020, is set aside and the matter is send back to the District Collector, Ramanathapuram District, to consider the representations given by the appellant dated 02.02.2018, 19.12.2019 and 25.11.2020 on merits and in accordance with law, uninfluenced by any observations made by the Writ Court, in the order which we have set aside by this judgment.

8. The representations shall be considered and orders be passed within a period of eight weeks from the date of receipt of a copy of this judgment, in order to facilitate early disposal of the representation. The appellant is directed to furnish the copies of three representations along with a copy of this judgment to the District Collector, Ramanathapuram District. No costs.



Sd/-

Assistant Registrar (C.O)

// True Copy //

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Sub Assistant Registrar (CS)

Pkn

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To

1. The Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Fort St.George, Chennai - 600 009.
2. The District Collector,
Ramanathapuram District,
Ramanathapuram.
3. The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

+1 CC to M/s.J.BALAMEENAKSHI, Advocate (SR-15542[F] dated 08/04/2021)

W.A. (MD) No.782 of 2021

08.04.2021

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