



W.P.(MD).No.7266 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**RESERVED ON : 22.08.2023**

**PRONOUNCED ON : 05.09.2023**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD)No.7266 of 2023**

V.Deva Pitchai

... Petitioner

Vs.

- 1.The Internal Audit Officer,  
Board Audit Office,  
Tamil Nadu Generation and Distribution Corporation Limited,  
(TANGEDCO),  
N.P.K.R.R.Maligai,  
First Floor,  
144/800 Annasalai,  
Chennai – 600 002.
  - 2.The Chief Engineer,  
Tamil Nadu Generation and Distribution Corporation Limited,  
(TANGEDCO),  
Tiruppur Distribution Circle,  
Tiruppur Town and District.
  - 3.The Superintending Engineer,  
Electricity Distribution Circle / South,  
Tamil Nadu Generation and Distribution Corporation Limited,  
(TANGEDCO),  
Coimbatore – 12.
- ... Respondents



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**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings issued by the second respondent in his proceedings in letter No. Ku.Tha.Po/Thiru/Vu.6/Aa No. 3545/2022 dated 29.10.2022 and quash the same and consequently direct the respondents herein to disburse the Family Pension and other related pensionary benefits including arrears of payments to the petitioner within the time stipulated by this Court.

|                 |                                         |
|-----------------|-----------------------------------------|
| For Petitioner  | : Mr.P.Mahendran                        |
| For Respondents | : Mrs.M.Parameswari<br>Standing Counsel |

### **ORDER**

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned proceedings issued by the second respondent vide proceedings in letter No. Ku.Tha.Po/Thiru/Vu.6/Aa No. 3545/2022 dated 29.10.2022 and consequently direct the respondents to disburse the Family Pension



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and other related pensionary benefits including arrears of payments to the petitioner within the time stipulated by this Court.

2.Heard Mr.P.Mahendran, learned counsel appearing for the petitioner and Mrs.M.Parameswari, learned standing counsel appearing for the respondents and perused the materials available on record.

3.The petitioner is the wife of one T.Selvanayagam, who was working with the respondent Board as an Account Supervisor. The petitioner belonged to the Christian Community. The marriage between the petitioner and her husband T.Selvanayagam was solemnized on 20.04.1967 and the same was an arranged marriage. The marriage between the petitioner and her husband was duly registered before the office of the Sub-Registrar, Srivilliputhur vide Document No.43 of 1967. However, the petitioner and her husband had no children. In the course of their matrimonial life indifference crept in between them, as a result of which the petitioner's husband filed a suit in O.S.No.482 of 1987 on the file of the learned Principal District Munsif at Srivilliputhur seeking to declare that the petitioner was not his wife and the same was decreed as prayed for on 24.07.1989. However, the said dissolution of marriage was not on the ground of adultery but on the



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basis of mutual consent between the parties. That apart even after that either the petitioner or her husband got remarried with any other person and both the petitioner and her husband were living separately.

4. During the period in the year 1992, the petitioner got reunited with her husband and got remarried as per their customs at Lord's Grace A.C Church, North Malayadipatti, Rajapalayam. While so, on 30.06.1994 the petitioner's husband attained his age of superannuation and retired from service of the respondent Board on 30.06.1994. After his retirement, the petitioner's husband received his terminal benefits and pension from the TANGEDCO Pensioners Family Security Fund and lifetime arrears of pension from the said Corporation. During the year 2020, suddenly, the petitioner's husband succumbed to paralytic stroke. Since they did not have any male assistant to immediately take care of themselves, they went to Chennai wherein the petitioner's husband's brother namely Jayadas, was residing at Plot No.4A, Ambattur Chennai. However, on 02.05.2021, the petitioner's husband passed away. Having obtained the Death Certificate and legal heir certificate, the petitioner approached the first respondent to grant family pension, since she has been nominated as a nominee of her husband T.Selvanayagam. A



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detailed representation dated 30.04.2022 was preferred by the petitioner to the respondents 2 and 3 requesting to grant family pension from 02.05.2021. However, the petitioner's request was rejected by the second respondent by the impugned proceedings in Letter No.Ku.Tha.Po/Thiru/Vu.6/Aa No.3545/2022, dated 29.10.2022 on the ground that the petitioner got divorced during the year 1989 and hence she is not eligible for payment of family pension, in which she was also advised to get necessary orders from the Court. Assailing the same, this Writ Petition came to be filed.

5.The learned Standing counsel for the respondents has filed a counter affidavit and submitted that the writ petitioner has to prove that the marital relationship subsisted between her and the deceased employee, namely T.Selvanayagam, since the decree of declaration dated 24.07.1989 in O.S.No.482 of 1987 on the file of the Principal District Munsif Court, Srivilliputhur is still in force and has not been set aside by the competent Court of law. Hence the petitioner is not entitled to claim the benefit under Rule 49 (11-A) of the Tamil Nadu Pension Rules for the purpose of availing family pension. In furtherance to the same, the learned standing counsel appearing for the respondents also submitted that the deceased employee had given



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a letter to the respondents insisting not to grant family pension to the writ petitioner, vide his letters dated 28.07.2004 and 20.10.2004 and pressed for dismissal of the writ petition.

6.Appreciating the submission of the learned Standing counsel for the respondents with respect to the letter given by the deceased employee not to grant family pension to the petitioner, this Court, by order, dated 18.07.2023, directed the respondent Board to place the complete file pertaining to the deceased employee T.Selvanayagam for the perusal of this Court and the same was duly produced.

7.A careful perusal of the said file revealed many facts. Though the petitioner claimed to have rejoined with her husband by a customary marriage and though the petitioner categorically submitted that she lived with her husband together till he passed away, the genuineness of the said submissions was put to stake by the various records produced by the Department before me. The form of application for pensionary benefits submitted by the petitioner's husband T.Selvanayagam has the endorsement of the said employee as "no family at present". Further, the address given in the said form



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was Grace Cottage, Sugandhi Nagar, Suler (P.O), Coimbatore District.

Even in the descriptive role of the spouse of the employee, the said employee had made an endorsement that he had no family. The entire terminal benefits of the said employee were fully disbursed on 03.10.1994. Interestingly on 28.07.2004 the said employee had sent a letter to the first respondent seeking to cancel the family pension stating that he had already been separated by a divorce decree from his ex-wife V.Deva Pitchai, who is the petitioner herein and he had no family on the date of his retirement that is on 30.06.1994 afternoon. He reiterated that he had not given any papers for sanctioning a family pension and accordingly, his superannuation pension was authorized by the respondent Board. Though he had admitted that for a brief period, he reunited with his divorced wife in the year 1998, he had further submitted that the petitioner had left him again on her own accord severing all her connections with him and that he was living with his ailing mother aged about 85 years. Having decided that the family pension should not be sanctioned to his ex-wife, that is the petitioner after his life, the petitioner's husband had written the said representation to the first respondent. He had insisted in the said representation that there is no purpose in recovering the subscription for Pensioners' Family Security Fund Scheme every month from his



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pension and requested to stop the said monthly deduction thereafter with effect from 28.07.2004. On accepting his representation, the deduction towards the Family Security Fund Scheme was stopped and the earlier deductions towards subscription of Family Security Fund Scheme was fully refunded to the said employee T.Selvanayagam by the first respondent vide proceedings dated 10.08.2004. As a consequence of that, as requested by him, the respondent Board cancelled the Family Security Fund Scheme which stood in the name of the said employee vide order, dated 07.02.2005. Only on the basis of these records, the petitioner's representation dated 30.04.2022 requesting to grant family pension to her from 02.05.2021 was rejected by the second respondent vide proceedings, dated 29.10.2022.

8.Though the petitioner rejoined with her husband for a brief period, the documents submitted before me would make it clear that the decree of declaration passed by a competent civil Court (declaring that the petitioner is not the wife of T.Selvanayagam) on 24.07.1989 is still in force and the same has not been revoked so far legally. It is pertinent to mention here that the Department, on the request of the employee T.Selvanayagam, has completely reimbursed



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the entire deductions made by the Department from him towards the Family Security Fund Scheme and has cancelled the said benefit as far as the said employee T.Selvanayagam is concerned as early as vide proceedings dated 10.08.2004 and 07.02.2005. The grant of family pension is regulated by the relevant service rules. In the case in hand, the deceased employee consciously refrained from contributing towards the Family Security Fund Scheme with effect from 28.07.2004 and even his entire earlier contribution towards the Family Security Fund Scheme has been fully refunded to him by the Department. Though grant of family pension is akin to providing maintenance to the deceased employee's wife, in the peculiar facts and circumstances of this case, the plight of the hapless petitioner could not be considered within the parameters of the service law governing the respondent Board.

9.In view of the same, this Court is of the considered opinion that the impugned rejection order passed by the second respondent, dated 29.10.2022, need not be interfered with and only at the instance of the deceased employee of the respondent Board, the benefit of family pension in favour of the petitioner has been cancelled even before 16 years from the date of the death of the deceased



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employee. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs.

**05.09.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes  
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To

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**L.VICTORIA GOWRI, J.**

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