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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.09.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.1060 of 2015
and
M.P.(MD)No.2 of 2015

- 1.The Chief Engineer,
Personnel, Tamil Nadu Electricity Board,
No.144, Anna Salai, Chennai.
- 2.The Superintending Engineer (in-charge),
Ramanathapuram Electricity Distribution Circle,
Ramanathapuram. ...Appellants

/Vs./

- 1.Shanmuga Sadacharam (died)
- 2.Kasturi
- 3.Kartheeswari
- 4.Kulandaivel
- 5.Annasubbu
- 6.Dikku ...Respondents

[R2 to R6 were brought on record as legal heirs of the deceased first respondent vide order dated 01.09.2023]

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to set aside the order dated 02.09.2013 in W.P.(MD)No.14363 of 2011.

For Appellants : No Appearance
For Respondent : Mr.R.Venkateswaran



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JUDGMENT

(Judgment of the Court was delivered by **DR.ANITA SUMANTH , J.)**

Read this order in continuation of and conjunction with order dated 18.08.2023, which reads as follows:

“The issue that arises in this matter is as to whether the writ petitioner /respondent is entitled to provisional pension.

2.The writ petitioner was arrested in the year 1993 and incarcerated for a period of one year. Provisional pension has admittedly been paid to him only between 1998 and 2010. Challenging the orders rejecting the request for provisional pension post 2010, W.P.(MD)No.2189 of 2012 was filed by the writ petitioner. A direction was sought to the respondent to grant provisional pension till the disposal of the criminal appeal.

3.That writ petition was allowed on 21.02.2014, after considering a slew of decisions including of this Court in C.N.Hariraman Vs. The Chairman, Tamil Nadu Electricity Board [2011 (4) CTC 602] and another in N.K.Suparna vs. Union of India [2005 (1) ATJ 420], which was referred in C.N.Hariraman's case and judgments.

4.We also find that Rule 69 of the Tamil Nadu Pension Rules, 1978, which is extracted below, is on point and provides for grant of provisional pension in cases where departmental or judicial proceedings are pending:-

“Tamil Nadu Pension Rules:

69.Provisional pension where departmental or judicial proceedings [or enquiry by the Director of Vigilance and Anti-corruption] may be pending. - (1) (a) In respect of a Government servant referred to in sub-rule (4) of 9, the Head of office shall pay the provisional pension not exceeding the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the Government servant.



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(b) No gratuity shall be paid to the Government servant until the conclusion the departmental or judicial proceedings [or enquiry by the Director of Vigilance and Anti-corruption] and issue of final orders thereon.”

5.Crl.A.(MD)No.181 of 2006 ultimately stood decided on 20.03.2018, adverse to the writ petitioner.

6.In light of the settled position as seen from the above decisions as well as Rule 69, we are of the view that the writ petitioner is entitled to provisional pension till 20.03.2018.

7.Be that as it may, the writ petitioner has passed away in 2021 and learned counsel seeks some time to bring on record the legal heirs. He is granted time till 31.08.2023.

8.List on 01.09.2023.”

2.Nothing is placed before this Court by the appellants today, to persuade us that any contra view be taken in regard to the view expressed by us in order dated 18.08.2023 as extracted above.

3.Thus for the reasons already assigned by us in that order, this Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[A.S.M.J.] & [R.V.J.]

01.09.2023

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NCC :Yes/No

Index :Yes/No

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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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Order made in
W.A.(MD)No.1060 of 2015

Dated:
01.09.2023

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