



W.P.No.28498 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

|                        |                   |
|------------------------|-------------------|
| <b>RESERVED ON :</b>   | <b>03.10.2023</b> |
| <b>PRONOUNCED ON :</b> | <b>27.03.2024</b> |

**CORAM :**

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU**

**AND**

**THE HON'BLE MRS.JUSTICE N.MALA**

**W.P.No.28498 of 2023**

Leelavathi

... Petitioner

**Vs.**

1. The Tamil Nadu State  
Level Scrutiny Committee- II,  
Rep. By its Chairman and Additional  
Secretary to Government,  
Adi Dravidar and Tribal Welfare Department,  
Namakkal Kavingar Maligai, 3<sup>rd</sup> floor,  
Secretariat, Chennai 600 009
2. The Principal Chief Commissioner of GST,  
Central Excise, Mahatma Gandhi Road,  
Nungambakkam, Chennai 34
3. The Commissioner of GST and Central Excise,  
No.4, Lal Bhadhur Shastri Road,  
B.B.Kulam, Madurai 2

... Respondents



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**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, by directing the respondents to notionally reinstate the petitioner's husband (late) Balakrishnan with effect from 31.03.2007 upto 29.02.2016 and grant back wages for the said period and consequently sanction pension and family pension to the petitioner with effect from 01.03.2016 and pay all amounts along with arrears in the light of the proceedings of the State Level Scrutiny Committee dated 24.10.2019 confirming the case status of the petitioner's husband Balakrishnan as Kattunaicken (ST).

For Petitioner : Mr.V.Vijayashankar

For R-1 : Mrs.S.Mythreye Chandru,  
Special Government Pleader

For RR -2 & 3 : Mrs.R.Hemalatha, SPC

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### **ORDER**

**Per J.NISHA BANU, J.,**

Seeking for a direction to the respondents to notionally reinstate the petitioner's husband (late) Balakrishnan with effect from 31.03.2007 upto 29.02.2016 and grant back wages for the said period and consequently sanction pension and family pension to the petitioner with effect from 01.03.2016 and pay all amounts along with arrears in the light of the



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proceedings of the State Level Scrutiny Committee, the petitioner has filed the present writ petition.

2. The wife of (late) C.Balakrishnan is the petitioner herein. The case of the petitioner is that her husband, belonging to Kattunaicken community which is classified as a Schedule Tribe, had joined service as Sepoy in the Commissioner of Central Excise, Madurai in the year 1975 and later was promoted as Havildar in the year 1987. While so, on the basis of an one-sided enquiry report, dated 26.10.2006 given by the District Level Vigilance Committee, Madurai, the third respondent herein had terminated the services of the petitioner's husband, vide order dated 30.03.2007 by holding that the said (late) C.Balakrishnan had violated the provision of Rule 3(1)(iii) of the CCS (Conduct) Rules, 1964 and imposed a penalty under Rule 11(ix) of the CCS (CCA) Rules, 1965 with immediate effect.

3. Aggrieved against the same, the petitioner's husband had filed O.A.No.289/2007 before the Central Administrative Tribunal, Chennai Bench, but the same came to be dismissed by order dated 21.11.2007 with



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liberty to agitate the issue after the State Level Committee renders its findings. Thereafter, an appeal was also filed by the petitioner's husband to the State Level Scrutiny Committee and the same also came to be dismissed, whereby the findings of the District Level Vigilance Committee was upheld vide order dated 03.11.2015.

4. Thereafter, the petitioner's husband had filed a writ petition in W.P.(MD)No.22292 of 2015 and at the time of hearing, it was informed before this Court that the State Level Scrutiny Committee will consider the case of the petitioner's husband. Therefore, this Court vide order dated 24.10.2016 closed the above writ petition by recording the above statement and holding that the petitioner's husband could take appropriate action after issuance of final order of the State Level Scrutiny Committee. After an elaborate re-enquiry, by proceedings dated 24.10.2019, the State Level Scrutiny Committee concluded that the community certificate of the petitioner's husband denoting him as “Kattunaicken Community(ST)” as genuine.



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5. According to the learned counsel for the petitioner, since during the years between 2020 to 2022, the impact of COVID-19 was at its peak, no action could be taken by the petitioner's husband. After serving for nearly 32 years, the petitioner's husband was abruptly terminated from service in the year 2007. Even though he had 9 more years of service left, he was terminated from service based on the wrong findings rendered by the third respondent. Though the State Level Scrutiny Committee vide proceedings dated 24.10.2019 has held that the community certificate of the petitioner's husband is genuine, he was not reinstated by the third respondent, rather his appeal seeking reinstatement was rejected by the third respondent stating as 'time-barred'.

6. It is further averred from the writ petition that the petitioner's husband died on 01.12.2022 leaving behind the petitioner and his five children. Thereafter, the petitioner made a detailed representation on 10.05.2023 to the second respondent to settle the pay and allowances, pension and other benefits payable to her husband. Since no action has been



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taken till date, the petitioner has approached this Court by way of filing this writ petition.

7. Heard the learned counsel for the petitioner and respondents and perused the materials placed before this Court.

8. Perusal of records would show that this writ petition was earlier posted before this Court under the caption “for maintainability” on 25.09.2023 and this Court has passed the following order:-

“...

*6. It is apparent from the relief sought by the petitioner and other materials on record that the petitioner belongs to Schedule Tribe community and the issue is with regard to the monetary benefits on account of the confirmation of caste status. Therefore, we are of the view that the writ petition is maintainable. Registry is directed to number the writ petition, if it is otherwise, in order and post the matter before this Court on 27.09.2023. Petitioner is also permitted to take private notice to the respondents”*



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9. The Government of India has issued guidelines periodically mandating all employers and Authorities to undertake verification at the earliest point of time preferably at the time of one's entry into service. In the present case, the petitioner's husband had joined service in the year 1975 and has served for nearly 32 years till he was abruptly terminated in the year 2007. Even though the State Level Scrutiny Committee had verified the community certificate of the petitioner's husband as genuine, the third respondent has failed to reinstate the petitioner back into service. In normal circumstances, the petitioner's husband ought to have reached the age of superannuation in February 2016 and would be entitled to get pension by reckoning his total qualifying service as 41 years.

10. While deciding the issue on hand, all the relevant facts involved in the case are to be kept in mind. The State Level Scrutiny Committee, vide proceedings dated 24.10.2019, while confirming the community status of the petitioner's husband Balakrishnan as Kattunaicken (ST), concluded that the “Kattunayakan” Scheduled Tribe Community Certificate issued by the Special Tahsildar is “Correct” and that the employee would have attained



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superannuation on 29.02.2016. As far as the Appellate Authority dismissing appeal filed by the employee [petitioner's husband] is concerned, the same is only on the grounds of delay in filing the appeal as against the Order-in-Original, whereby, the employee was dismissed from service. While the very allegation against the employee was found to be false and the State Level Scrutiny Committee found that the Community Certificate is correct, the employee is entitled to the benefits of notional reinstatement and monetary benefits.

**11.** In view of the above reasonings, we direct the respondents 2 and 3 to notionally reinstate the petitioner's husband (late) Balakrishnan with effect from 31.03.2007 upto 29.02.2016 and grant all monetary and attendant benefits, pension and family pension to the petitioner with effect from 01.03.2016 and pay all dues as per Rules. The said exercise shall be carried out by the respondents 2 and 3 within a period of eight (8) weeks from the date of receipt of a copy of this order.



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**12.** In the result, the Writ Petition stands Allowed on the above directions. No costs.

**(J.N.B., J.)**

**(N.M., J.)**

**27.03.2024**

Index : Yes/No  
Speaking Order : Yes/No  
Neutral Citation : Yes/No

sts

To:

1. The Chairman and Additional  
Secretary to Government,  
Tamil Nadu State Level Scrutiny Committee- II,  
Adi Dravidar and Tribal Welfare Department,  
Namakkal Kavingar Maligai, 3<sup>rd</sup> floor,  
Secretariat, Chennai 600 009
2. The Principal Chief Commissioner of GST,  
Central Excise, Mahatma Gandhi Road,  
Nungambakkam, Chennai 34
3. The Commissioner of GST and Central Excise,  
No.4, Lal Bhadur Shastri Road,  
B.B.Kulam, Madurai 2



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**J.NISHA BANU, J.,**  
**and**  
**N.MALA, J.,**

sts

Order made in  
**W.P.No.28498 of 2023**

Dated:  
**27.03.2024**