



WEB COPY



W.P.No.26237 of 2021

0IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

CORAM

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

W.P. No.26237 of 2021

C.Malani

...

Petitioner

Vs.

1. The Secretary to Government of Tamilnadu  
Municipal Administration and Water Supply  
Department, Fort St. George, Chennai -9.

2. The Director of Town Panchayats,  
Kuralagam, Chennai 108.

3. The Assistant Director of  
Town Panchayats,  
Vellore.

4. The Executive Officer,  
Kalavai Selection Grade Town Panchayat,  
Kalavai Vellore District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondents to grant arrears of pay fixation, payable to the petitioner's husband late M.S.Chakkravarthy on completion of 3 years of temporary services, arrears of pay, pension, gratuity and Earned Leave Encashment and family Pension along with



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arrears to the petitioner in compliance of the direction issued by this Court in W.P.No.22599 of 2013 dated 29.08.2013 as confirmed in W.A.No.742 of 2015 dated 11.09.2015.

For Petitioners : Mr.V.Vijay Shankar

For Respondents : Mr.R.Neethi Perumal,  
Government Advocate

**ORDER**

The petitioner's husband was working as a Water Tank Watchman on daily wage basis under the Kalavai Water supply scheme from 11.08.1983 onwards. Subsequently, the scheme was handed over to the Kalavai Town Panchayat on 01.05.1984 and since then, he was working temporarily on daily wage basis in the said town Panchayat. The petitioner's husband was regularized with effect from 11.12.2009 as per G.O.Ms.No.198, Municipality Administration and Water Supply Department, dated 26.10.1998. Though similarly placed persons have been regularised pursuant to the above Government Order, the petitioner's husband was regularised in the year 2009.

2. Hence, the petitioner's husband filed a Writ Petition in



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W.P.No.22599 of 2013 and the same was allowed on 29.08.2013, directing the fourth respondent / the Executive Officer, Kalavai Selection grade Town Panchayat, Kalavai, Vellore District to regularise the service of the employee / petitioner's husband on completion of three years from the date when he was appointed on consolidated pay and also grant monetary benefits pursuant to the regularisation. Challenging the same, an appeal has been preferred by the respondents against the petitioner and similarly placed persons in W.A.No.580 batch of 2015 and the same was disposed on 11.09.2015, confirming the order of the learned Single Judge with a few modifications. But before implementing the orders, the petitioner's husband died on 26.05.2021. Subsequent to his death, the legal heirs of the petitioner made repeated representations for disbursement of the terminal benefits of the employee along with pensionary benefits. So far, the respondents did not consider and pass any orders on the representation.

3. Mr.V.Vijay Shankar, learned counsel for the petitioner submitted that the respondents have filed the Review Application in SR No.33214 of 2016 which was listed for hearing on 20.02.2017 and the same is still



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pending. A petition has also been filed to condone the delay in filing the Review application. However, the respondents did not show any interest or take any steps to number the Review application and make it fit for hearing by getting any orders in respect of the application filed for condonation of delay.

4. Mr.R.Neethi Perumal, learned Government Advocate appearing for the Respondents submitted that G.O.Ms.No.198, Municipality Administration and Water Supply Department, dated 26.10.1998 on which basis the earlier Writ Petition is allowed, is not applicable to the case of the petitioner. The learned Government Advocate further submitted that the petitioner's husband has attained the age of superannuation on 31.05.2015 and after his retirement, he died on 26.05.2021. The terminal benefits due to him has been paid to him in the year 2017. Now the petitioner's wife has filed the present Writ petition seeking pension for her husband who is not eligible under the old pension scheme.



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5. However, the respondents did not take the above stand before the Writ Court or before the Division Bench, now the respondent cannot take shelter under the unnumbered Review application which is pending in SR stage itself for several years. Hence, the 4th respondent is directed to consider the representation of the petitioner dated 25.10.2021 and pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition is disposed of. No costs.

**12.01.2024**

Index: Yes / No  
Speaking order / Non-speaking order  
vum



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**R.N.MANJULA ,J.**

vum

To:

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