



WP(MD)No.13133 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.13133 of 2022 and
WMP(MD)Nos.9329 and 9331 of 2022**

1.N.Maharajapillai (died)
2.Subbammal
3.M.Nellaiyappan

... Petitioners

[Petitioners 2 and 3 are substituted
vide order dated 25.09.2024 in
WMP(MD)No.17220 of 2024]

Vs

The Joint Commissioner / Executive Officer,
Kanyakumari District Thirukovilgal,
Head Office, Suseendram,
Kanyakumari District.

...Respondent

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records in Na.Ka.No.977/2019/A1, dated 10.03.2021 on the file of the respondent, quash the same directing the respondent to pay the provisional pension to the petitioner pending disposal of C.A.No.114 of 2019 on the file of the Sessions Court, Kanyakumari District of Nagercoil.

For Petitioner : Mr.K.Shanmugakani

For Respondent : Mr.K.Sathya Singh



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ORDER

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The 1st petitioner Maharajapillai had served as the Superintendent of the Sri Adhikesava Perumal, Thiruvattar from the year 1990 and retired from service in the year 1999. A criminal case was registered as against him that he was also responsible for the missing of the temple jewels. A charge sheet was also laid in the criminal case before the Judicial Magistrate Court No.I, Nagercoil as against him in CC.No.210 of 2011 and by judgment dated 19.09.2019 he was found guilty and convicted. As against the order of conviction, he filed a criminal appeal before the Principal Sessions Court, Kanyakumari. He also filed an application in CrIMP.No.4384 of 2019 to suspend the sentence imposed on him and it was allowed by order dated 03.10.2019. By referring to the order suspending the sentence till the disposal of the appeal, he requested for provisional pension, which was rejected by the respondent. Challenging the same, the said Maharajapillai filed this writ petition in the year 2022. Pending the writ petition, he has passed away. Therefore, his wife and son are substituted in his place in this writ petition.



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2.The order of rejection of the request for the provisional pension is challenged in this writ petition. Admittedly the employee Maharajapillai was found guilty for the missing of jewels and was convicted by the Judicial Magistrate Court No.I, Nagercoil in CC.No.210 of 2011 by judgment dated 19.09.2019. Challenging the same an appeal is filed and it is also pending. The eligibility of the family pension for the petitioners can be considered by the respondent only based on the outcome of the criminal appeal, which is pending before the Principal Sessions Court.

3.In view of the above, the petitioners shall workout their remedy based on the outcome of the criminal appeal in CA.No.114 of 2019 pending on the file the Principal Sessions Court, Kanyakumari.

4.The learned Counsel for the petitioners submits that the petitioners 2 and 3 have filed an application before the Principal Sessions Court to substitute them in the criminal appeal.

5.Considering that the criminal appeal filed by the 1st petitioner is pending for the past five years, this Court directs the learned Principal Sessions Judge, Kanyakumari to conclude the case in CA.No.114 of 2019



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within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petitions are closed.

13.11.2024

Internet : Yes / No

Index : Yes / No

DSK

To

The Joint Commissioner / Executive Officer,
Kanyakumari District Thirukovilgal,
Head Office,
Suseendram,
Kanyakumari District.

Copy to

The Principal District and Sessions Judge,
Kanyakumari @ Nagercoil.



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B.PUGALENDHI.J.,

DSK

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