



W.A(MD) No.1110 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.A.(MD) No.1110 of 2018
and CMP (MD) No.7975 of 2018**

1.The Secretary to Government of Tamilnadu,
Rural Development and Local Administration
Department,
Fort St.George, Chennai – 9.

2.The District Collector, Theni.

3.The Commissioner,
Theni Panchayat Union,
Theni.

... Appellants/
Respondents

-VS-

S.Vaiyapuri

... Respondent/writ petitioner

Prayer: Writ Appeals filed under Clause 15 of Letters Patent, to set aside
the order passed in W.P. (MD) No.8113 of 2009 dated 06.06.2017.

For Appellants : M.Senthil Ayyanar
Government Advocate

For Respondent : Mr.B.Jeyakumar



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W.A(MD) No.1110 of 2018

JUDGMENT

The Writ Appeal had been filed by the respondents in W.P. (MD) No.8113 of 2009 aggrieved by the order dated 06.06.2017 of the learned Single Judge allowing the writ petition.

2. The writ petitioner, S.Vaiyapurai, had filed the writ petition in the year 2009 in the nature of a certiorarified mandamus to call for records and to quash an order of the third respondent, the Commissioner, Theni Panchayat Union, Theni, dated 12.01.2009 in reference in Na.Na.No.3577 of 2008 and regularise the services of the wife of the writ petitioner, Mrs.Jothiammal, who was working as Gangmazoor (salaipaniyalar) under the third respondent, the Commissioner, Theni Panchayat Union, Theni and to grant retirement-cum-death benefit which had accrued to her.

3. When the writ petition had come up for consideration before the learned Single Judge, it had been observed that the only question which had come up for consideration in the writ petition was



W.A(MD) No.1110 of 2018

whether the services could be regularised.

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4. The learned Single Judge had observed that the wife of the writ petitioner had joined duty on 29.06.1971 and had passed away on 06.03.1980. The learned Single Judge also placed reliance on the G.O.Ms.No.664, RD & LA Department, dated 21.08.1986 wherein, it had been stated that if there is a break in service, the service of the Government servant can be regularised. It had been further observed that the wife of the writ petitioner had completed 8 years 8 months and 5 days of service and it had observed that even if there is any break in service, the service can be regularised. Questioning this particular order of the learned Single Judge, the writ appeal had been filed by the respondents.

5. The learned Government Advocate on behalf of the appellants pointed out that the wife of the writ petitioner Jothiammal had died on 06.03.1980 and after a period of 29 years, the writ petition had been filed. It was also contended that the writ petitioner had actually married for a second time, Parameswari and also had a son. The writ petitioner had also died on 15.03.2022.



W.A(MD) No.1110 of 2018

WEB COPY

6. Now, the legal heirs cannot seek any relief so far as Jothiammal is concerned since, there is no direct legal heir for her seeking any benefit out of regularisation even if granted. The only available legal heirs for the writ petitioner/first respondent herein are second wife/Parameswari and his son born through the second wife Sudhakaran, who is also married. His mother however is available Suruliammal but, so far as Jothiammal is concerned, Suruliammal is her mother-in-law and not a direct Clause-1 heir.

7. In view of the fact that the wife of the writ petitioner had worked only for a period of 8 years 8 months and 8 days which disqualifies of her service being regularised since a minimum of ten years will have to be put in, we are of the view that reliance placed on G.O.Ms.No.664, RD & LA Department, dated 21.08.1986 would not come to the rescue of the writ petitioner/first respondent and accordingly, we are constrained to set aside the order of the learned Single Judge on all the above grounds.



W.A(MD) No.1110 of 2018

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8. A representation was made on behalf of the deceased first respondent, who is represented by a learned Counsel who expressed difficulty in bringing on record the legal heirs of the deceased first respondent.

9. The writ appeal stands allowed. Consequently, the connected Civil Miscellaneous Petition is closed. There shall be no order as to costs.

[C.V.K., J.] [J.S.N.P., J.]
23.09.2024

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No
PKN

To

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W.A(MD) No.1110 of 2018

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W.A(MD) No.1110 of 2018

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PKN

W.A (MD) No.1110 of 2018

23.09.2024