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W.P.No.4145 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 1/4/2025

C O R A M

The Hon'ble **Mrs.JUSTICE V.BHAVANI SUBBAROYAN**

Writ Petition No.4145 of 2023

Chandrashekarani

...

Petitioner

Vs

1. The Assistant Account Officer
Office of the Accountant General
(Accounts and Entitlement)
361 Anna Salai
Teynampet
Chennai.
2. The Secretary
Department of Social Welfare and Women's Rights
Saidapet
Chennai.
3. The District Collector
Collectorate Office
Krishnagiri District.
4. The Block Development Officer
Bargur Taluk
Krishnagiri District.
5. The District Social Welfare Officer
Krishnagiri District. ... Respondents.



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PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents to convert the CPS account to GPF account of the late M.Lalitha to make benefit that the petitioner is entitled to the pension of late M.Lalitha to cancel and settle the pending audit proceedings of the late M.Lalitha to give the petitioner all the benefits and claims he is entitled to after the demise of M.Lalitha.

For petitioner	...	Dr.G.Babu
For respondents	...	Mr.S.Balaji for R.1
		Mr.T.N.Rajangam Government Advocate for R.R.2, 3 and 5.
		Mr.G.Velu Additional Government Pleader for R.4

ORDER

This writ petition has been filed to direct the respondents to convert the CPS account to GPF account of the deceased wife late M.Lalitha and settle all the benefits to the petitioner.



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2. The case of the petitioner in brief are as follows:-

The petitioner's wife Late M.Lalitha was appointed as Balasevika, as per the Proceeding dated 1/3/1980 of the District Social Welfare Officer, Dharmapuri and joined duty as Child Welfare Organiser in Uddanapalli Child Welfare Centre on 7/3/1980 on the monthly pay of Rs.115/-. Thereafter, she got promoted as Panchayat Union Women Welfare Officer and Superintendent Grade – I on 19/4/2007 and 3/6/2013, respectively.

3. The wife of the petitioner, died on 10/11/2020, while in service. The petitioner's wife is entitled to all the pension schemes and other schemes introduced by the Government of Tamil Nadu. Hence, the petitioner, made a representation to the Block Development Officer, dated 3/12/2020 informing about the death of his wife along with requisite documents. Since there was no response from the Block Development Officer, sent another representation dated 4/12/2020 for the claim of the wages of Late M.Lalitha during her leave periods and the Block Development Officer, Bargur sent a direction to the Social Welfare Officer,

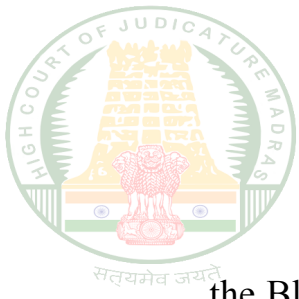
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District Collectorate, Krishnagiri District to waive the leaves taken by the late M.Lalitha and convert them into wages.

4. Pending the claims, CPS number was allotted to Late M.Lalitha. The appointment of late M.Lalitha was a regular one and GPF number should be allotted instead of CPS number. With regard to this, petitioner made a representation to the Accountant General, to pass suitable orders to change the CPS account to GPF account. Vide, letter dated 7/10/2022, the Assistant Accounts Officer had rejected the request of the petitioner stating that as the Government servant has already expired, it is not necessary to allot a GPF account number now and returned the the correspondence received with the above reference.

5. The wife of the petitioner has received a letter during the month of March 2019 from the Social Welfare Officer to the Block Development Officer, Bargur, raising an audit enquiry that his wife had received an excess amount of Rs.82,225/- during the period from 1/11/2014 to 31/1/2018 and the same has to be deducted and deposited in the account of the Government. Then, vide, letter dated 11/12/2020, it is mentioned by



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the Block Development Officer, Bargur that if the said amount is paid, then the wages during the medical leave of 55 days of late M.Lalitha and other reliefs will be granted.

6. The petitioner had sent several representations to the Social Welfare Department, Chennai, District Social Welfare Officer, Krishnagiri explaining that the wages given to his wife during the period 1/11/2014 to 31/1/2018 were correct, but till date, neither reply nor action action had been taken. Hence, the petitioner has come forward with the instant writ petition praying for the relief as stated therein.

7. The District Social Welfare Officer, Krishnagiri, has filed a counter affidavit, wherein it is stated that as per the revised Pension Rules, wife of the petitioner is not eligible for pension under GPF Scheme. The petitioner's wife initially appointed as Balaseviga under special time scale of pay. The said individual in the cadre of Balaseviga does not come under the GPF scheme, as there are no provisions or law to recover GPF contribution from any individual who comes under special time scale of pay. Further,

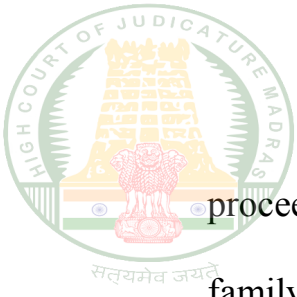


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the persons working under time scale of pay in any post joining after 1/4/2003 are not eligible for pension under GPF Scheme and thus wife of the petitioner is not eligible for pension under GPF Scheme. Hence prays for dismissal of the writ petition.

8. Heard Dr.G.Babu, learned counsel for the petitioner, Mr.S.Balaji, learned counsel for the first respondent, Mr.T.N.Rajangam, learned Government Advocate for the respondents 2, 3 and 5 and Mr.G.Velu, learned Additional Government Pleader for the fourth respondent.

9. The learned counsel appearing for the petitioner would submit that the action of the respondents withholding all the benefits to the petitioner just because audit proceedings are pending is violative of the right of the petitioner. In Sub-Rule (ii) of 74 of the Tamil Nadu Pension Rules, 1978, it is specifically stated that if a Government servant on whom disciplinary action is pending or is contemplated in respect of audit objections involving financial losses of other irregularities, dies before final orders are passed in the matter, the audit objections pending against the deceased servant shall be deemed to have been settled on the date of his/her death and disciplinary



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proceedings be deemed to have been dropped. The benefits due to the family of the deceased Government servant shall not be withheld.

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10. Mr.T.N.Rajangam, learned Government Advocate, appearing for the respondents 2, 3 and 5 would submit that the wife of the petitioner died on 10/11/2020 while she was in service due to ill health and there is no provision to allot GPF to a dead person. He would further submit that the petitioner without sending any representation to the fifth respondent has straight away approached this Court and prays this Court to dismiss the writ petition.

11. Perused the materials available on record.

12. The petitioner's wife was initially appointed as Balaseviga under the special time scale of pay of Government of Tamil Nadu. The deceased was in the cadre of Balaseviga, which does not comes under the General Provident Fund Scheme, as there are no provisions or law to recover GPF contribution from any individual who comes under the special time scale pay of Government of Tamil Nadu.



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13. The Government had taken a policy decision and has modified the existing Pension Rules, 1978 and enacted new Pension Rules, viz., CPF (Contribution Pension Scheme) in G.O.Ms.No.259 Finance (Pension) Department dated 6/8/2022. As per the new Pension Rules, the Government servants appointed after 1/4/2003 are eligible for CPS scheme only and a sum of 10% of salary has to be recovered from the Government servants and paid as CPS. The petitioner has joined as Balaseviga on 7/3/1980 and she comes into regular time scale of pay with effect from 28/5/2007. In view of the above, the wife of the petitioner is not at all eligible for old Pension Scheme.

14. A perusal of the letter dated 21/1/2025, of the District Social Welfare Officer, Krishnagiri, it could be deduced that after the death of the deceased, an amount of Rs.3,00,000/- (Rupees three lakhs only) has been disbursed to the family of the deceased, vide Proceeding No.612/A1/2002 dated 8/7/2022. Apart from the said amount, the respondents had not disbursed any amount as retirement benefits and the same has not been denied by the respondents also.



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15. In such a view of the matter, this Court direct the respondents to consider the case of the petitioner and disburse the amounts, if any due to the petitioner and his family, within a period of twelve weeks from the date of receipt of a copy of this order.

16. With the above direction, this writ petition is disposed of. No costs.

1/4/2025

mvs.

To

1. The Assistant Account Officer
Office of the Accountant General
(Accounts and Entitlement)
361 Anna Salai, Teynampet, Chennai.
2. The Secretary
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