



W.P.No.12188 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.03.2025

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**Coram:
THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.P.No.12188 of 2009

1.S.Chidakasan (Deceased)

2.Ms.A.P.Aishvarya

(P2 was substituted as Legal Representative of the deceased P1 as per Order dated 25.10.2024 in W.M.P.No.33818 of 2023 in W.P.No.12188 of 2009)

...Petitioners

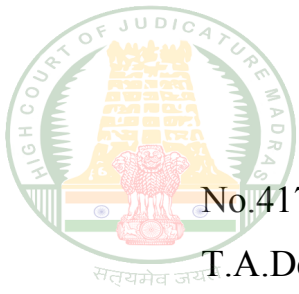
Versus

1.The General Manager (T & A),
Neyveli Lignite Corporation Limited,
Neyveli.

2.The Deputy General Manager (P&A/W&A),
Neyveli Lignite Corporation Limited,
Public Relations Building, Block – 11,
Neyveli.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the order dated 12.11.2008 in Letter No.CORP/P And A/W And A/EEG/135/1320/2008 of the 2nd Respondent herein and quash the same and consequently, direct the 2nd Respondent herein to sanction a sum of Rs.5,625/- per month as Family Relief Fund with effect from 01.08.2006 up to 31.03.2010 and a sum of Rs.8,500/- per month as Family Relief Fund with effect from 01.04.2010 in respect of the claim made by the Petitioner on behalf of Minor A.P.Aishwarya due to the death of C.Poonkothai (CPF



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No.41767), Technical Grade II(B), Civil Technical Section,
T.A.Department, Neyveli Lignite Corporation Ltd., Neyveli.

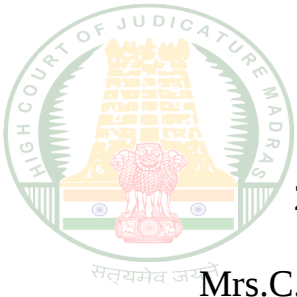
(Prayer was amended as per Order dated 03.01.2025 in M.P.No.1 of 2012 in
W.P.No.12188 of 2009)

For Petitioner : Mrs.A.L.Ganthimathi,
Senior Counsel
for Mr.L.Palanimuthu

For Respondents : Mr.N.Nithianandam

ORDER

The relief sought in this Writ Petition is to quash the Order dated 12.11.2008 in Letter No.CORP/P and A/W and A/EEG/135/1320/2008 (hereinafter referred to as “Impugned Circular”) of the 2nd Respondent and consequently, direct the 2nd Respondent to sanction a sum of Rs.5,625/- per month as Family Relief Fund with effect from 01.08.2006 up to 31.03.2010 and a sum of Rs.8,500/- per month as Family Relief Fund with effect from 01.04.2010 in respect of the claim made by the Petitioner on behalf of Minor A.P.Aishwaraya due to the death of C.Poongothai (CPF No.41767) Technical Grade II(B), Civil Technical Section, T.A.Department, Neyveli Lignite Corporation Limited Neyveli.



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2. The brief facts of the case are that the 2nd Petitioner's mother Late Mrs.C.Poongothai was working as Technician Grade – II(B), Civil Technical Section in T.A. Department of the Respondent Corporation. On 07.07.2006, at around 9.30 a.m, when the deceased Poongothai was proceeding to the office in her two wheeler, she met with an accident and sustained serious head injuries, as a result of which, she died on the accident spot.

3. The deceased Poongothai was a divorcee. The deceased 1st Petitioner viz., Mr.S.Chidakasan is the father of deceased Poongothai and the 2nd Petitioner is the only daughter of deceased Poongothai. The 2nd Petitioner was only 5 years old at the time of death of her mother Poongothai. Hence, after the demise of Poongothai, the 2nd Petitioner was under the care and custody of her grandfather (deceased 1st Petitioner).

4. As per Circular dated 16.02.2005 of the Respondent Corporation, the rate of Family Relief Fund payable to the dependents of the deceased NLC employees who died on account of accident, arising out of and in the course of employment was revised as Rs.5,625/- per month. Hence, the



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deceased 1st Petitioner made a Representation dated 06.10.2008 to the Chairman of the Respondent Corporation, requesting to sanction the Family Relief Fund of Rs.5,625/- per month with effect from 01.08.2006 with arrears to the 2nd Petitioner.

5. However, the 2nd Respondent vide Impugned Circular dated 12.11.2008, rejected the request of the deceased 1st Petitioner. Hence, left with no other alternative, the deceased 1st Petitioner had filed this Writ Petition praying this Court to quash the Circular dated 12.11.2008 issued by the 2nd Respondent and to direct the 2nd Respondent to sanction a sum of Rs.5,625/- per month as Family Relief Fund with effect from 01.08.2006 in respect of the claim made by the 1st Petitioner on behalf of 2nd Petitioner.

6. During the pendency of this Writ Petition, the 1st Petitioner died on 13.07.2014. Therefore, the only daughter of Late Mrs.C.Poongothai viz., Ms.A.P.Aishvarya has been substituted as 2nd Petitioner in this Writ Petition by this Court vide Order dated 25.10.2024 in W.M.P.No.33818 of 2023 in W.P.No.12188 of 2009.



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7. The learned Senior Counsel for the Petitioner submitted that the deceased 1st Petitioner's request for sanctioning the Family Relief Fund of Rs.5,625/- per month with effect from 01.08.2006 with arrears to the 2nd Petitioner was rejected by the 2nd Respondent on the ground that there was no proof that the deceased 1st Petitioner's daughter Late Mrs.C.Poongothai met with an accident while coming to attend duty.

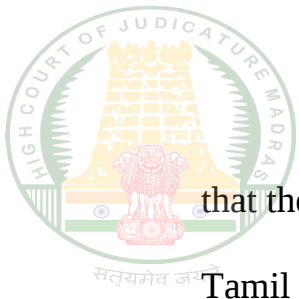
7.1. In this connection, the learned Senior Counsel for the Petitioner drew the attention of this Court to the Impugned Circular dated 12.11.2008 issued by the 2nd Respondent, wherein, it has been stated as follows:

"We are in receipt of your letter addressed to our Chairman seeking reconsideration of Family relief being paid to Selvi A.P.Aishvarya, Minor daughter of late C.Poongothai (CPF No.41767), under Industrial accident category.

In this regard we wish to inform that family relief applications are processed based on records made available by the Unit P & A and the recommendations of the concerned committee. In fact, subsequent to the receipt the application for family relief, clarification was sought from outside regarding the nature of death. From the response of the unit P & A, it is seen that on account of non-availability of proof that (Late) Smt.C.Poongothai met with an accident while coming to attend duty, the accident was taken as normal traffic accident and not as Industrial accident (under notional extension of time).

Under the circumstances, there is no scope for re-consideration of your claim for payment of family relief under Industrial accident company. Hence, we regret to inform that your request cannot be acceded to."

7.2. The learned Senior Counsel for the Petitioner further submitted



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that the news about the death of Late Mrs.C.Poongothai was published in the Tamil Daily viz., Dhina Thanthi dated 08.07.2006. In the said newspaper, it had been stated that on 07.07.2006, when deceased Poongothai was proceeding to office in her moped, she met with an accident and died.

7.3. That apart, it is submitted by the learned Senior Counsel for the Petitioner that the date of accident has been mentioned as 07.07.2006 and the time of accident has been mentioned as 09.30 a.m in the following documents:

- (i) First Information Report dated 07.07.2006 registered on the file of Neyveli Township Police Station;
- (ii) Post-Mortem Certificate dated 07.07.2006 issued by the Civil Assistant Surgeon, Government Hospital, Panruti; and
- (iii) Inspection Report dated 10.07.2006 submitted by the Motor Vehicle Inspector.

7.4. It is also submitted by the learned Senior Counsel for the Petitioner that a Petition in M.C.O.P.No.86 of 2006 was filed before the Motor Accident Claims Tribunal, Panruti seeking compensation for the death of Poongothai which was disposed of by the Motor Accident Claims Tribunal, Panruti vide Order dated 08.09.2008. In Paragraph No.2 of the

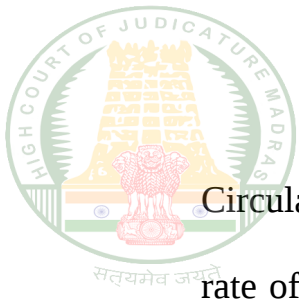


Order dated 08.09.2008 in M.C.O.P.No.86 of 2006, it had been stated that on 07.07.2006 at about 9.30 a.m, when the said Late Mrs.C.Poongothai was proceeding towards office in her TVS-50 moped, she met with an accident and died on the spot.

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7.5. It is submitted by the learned Senior Counsel for the Petitioner that though the documents such as F.I.R., Post-Mortem Certificate and Inspection Report of the Motor Vehicle Inspector indicating that Late Mrs.C.Poongothai died in an accident that took place on 07.07.2006 at around 9.30 a.m when she was proceeding to office in her two wheeler, the 2nd Respondent issued the Impugned Circular dated 12.11.2008 stating that there was no proof that the deceased Poongothai met with an accident while she was coming to duty and hence, the request of the deceased 1st Petitioner cannot be acceded to. Therefore, it is submitted that the Impugned Circular issued by the 2nd Respondent is liable to be quashed.

7.6. The learned Senior Counsel for the Petitioner further submitted that subsequent to the filing of this Writ Petition, the 2nd Respondent vide



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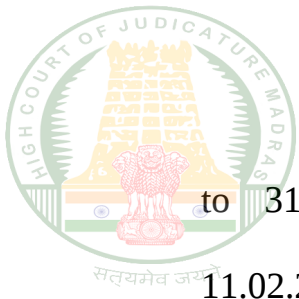
Circular No.CORP/P&A/721/4503/2010 dated 14.07.2010, enhanced the rate of Family Relief Fund payable to the dependents of the deceased NLC employees who died on account of accident, arising out of and in the course of employment from Rs.5,625/- to Rs.8,500/-.

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7.7. It is also submitted by the learned Senior Counsel for the Petitioner that pursuant to the issuance of aforesaid Circular dated 14.07.2010, the 2nd Petitioner filed a Miscellaneous Petition in M.P.No.1 of 2012 in W.P.No.12188 of 2009 seeking to amend the prayer in this Writ Petition which was allowed by this Court vide Order dated 03.01.2025 and the prayer in this Writ Petition was amended as follows:

“Writ of Certiorarified Mandamus calling for the records relating the Order dated 12.11.2008 in Letter No.CORP/P and A/W and A/EEG/135/1320/2008 of the 2nd Respondent herein and quash the same and consequently, direct the 2nd Respondent herein to sanction a sum of Rs.5,625/- per month as Family Relief Fund with effect from 01.08.2006 up to 31.03.2010 and a sum of Rs.8,500/- per month as Family Relief Fund with effect from 01.04.2010 in respect of the claim made by the Petitioner on behalf of Minor A.P.Aishwaraya due to the death of C.Poongothai (CPF No.41767) Technical Grade II(B), Civil Technical Section, T.A.Department, Neyveli Lignite Corporation Limited Neyveli.”

7.8. The learned Senior Counsel for the Petitioner prayed that appropriate direction may be issued to the 2nd Respondent to pay a sum of Rs.5,625/- per month as Family Relief Fund with effect from 01.08.2006 up



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to 31.03.2010 as per Circular No.CORP/P&A/FR/1311/2005 dated 11.02.2005 and a sum of Rs.8,500/- per month as Family Relief Fund with effect from 01.04.2010 as per Circular No.CORP/P&A/721/4503/2010 dated 14.07.2010 to the 2nd Petitioner.

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8. On the other hand, the learned counsel for the Respondents Corporation submitted that in Page No.5 of the Post-Mortem Report, the time of accident was initially mentioned as 7.30 a.m, but, later, the same has been manipulated as 9.30 a.m. It is submitted that the Post-Mortem Report was manipulated for the purpose of obtaining the enhanced Family Relief Fund. Therefore, the learned counsel for the Respondents prayed for dismissal of this Writ Petition.

9. Heard the learned counsel on either side and perused the materials available on record.

10. A reading of the documents which were produced before this Court indicates that indeed the accident had took place on 07.07.2006 at 9.30 a.m. The time of accident is more or less approximate to the time when

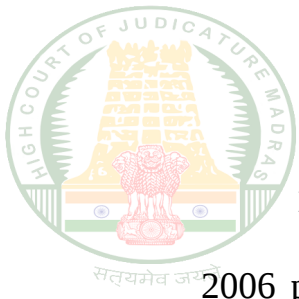


the employees of the Respondent Corporation would start from home to proceed to the office.

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11. Further, a perusal of the Post-Mortem Certificate dated 07.07.2006 issued by the Civil Assistant Surgeon, Government Hospital, Panruti indicates that the Post-Mortem of the Late Mrs.C.Poongothai was done on 07.07.2006 i.e., the date on which the accident had took place and the said Post-Mortem had commenced at 2.15 p.m and the same had been concluded at 3.15 p.m. In the Post-Mortem Certificate, it has been stated that the possible time of death of Poongothai was 5 to 8 hours prior to Post-Mortem. Thus, it is clear that the said 5 to 8 hours prior to Post-Mortem would be any time between 6.15 a.m and 9.15 a.m.

12. It is to be noted that in the Post-Mortem Report dated 07.07.2006 submitted by the Inspector of Police, Neyveli Township Police Station, it has been stated that the accident took place at 9.30 a.m. Similarly, in the Inspection Report dated 10.07.2006 submitted by the Motor Vehicle Inspector, the time of accident has been mentioned as 9.30 Hrs.



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13. That apart, in the Order dated 08.09.2008 in M.C.O.P.No.86 of 2006 passed by the Motor Accident Claims Tribunal, Panruti, it has been stated that on 07.07.2006 at about 9.30 a.m, Late Mrs.C.Poongothai was proceeding towards office in her TVS-50 moped, when she met with an accident and died on the spot. In the newspaper publication of Tamil Daily viz., Dhina Thanthi dated 08.07.2006, it has been stated on 07.07.2006, when Late Mrs.C.Poongothai was proceeding to the office, she met with a road accident and died.

14. While so, the 2nd Respondent vide Impugned Circular dated 12.11.2008, has rejected the request of the deceased 1st Petitioner without any basis. Based on the response of the Unit P & A, the 2nd Respondent has erroneously held that on account of non-availability of proof that deceased Poongothai met with an accident while coming to attend duty. The accident was taken as normal traffic accident and not as industrial accident.

15. Considering the fact that the documents available before this Court clearly indicate that the accident took place at 9.30 a.m, this Court is inclined to quash the Impugned Circular issued by the 2nd Respondent and



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allow this Writ Petition.

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16. Accordingly, the Impugned Circular dated 12.11.2008 issued by the 2nd Respondent is hereby quashed and this Writ Petition is allowed with a direction to the Respondents to pay the 2nd Petitioner the arrears of revised Family Relief Fund with effect from 01.08.2006 up to 31.03.2010 as per Circular No.CORP/P&A/FR/1311/2005 dated 11.02.2005 and also, to pay the arrears of enhanced Family Relief Fund with effect from 01.04.2010 as per Circular No.CORP/P&A/721/4503/2010 dated 14.07.2010, within a period of six weeks from the date of receipt of a copy of this order. No costs.

13.03.2025

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The General Manager (T & A),
Neyveli Lignite Corporation Limited,
Neyveli.

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2. The Deputy General Manager (P&A/W&A),
Neyveli Lignite Corporation Limited,
Public Relations Building, Block – 11,
Neyveli.

C.SARAVANAN, J.

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