



W.P.(MD) No.3132 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.3132 of 2025

P.Ravichandran

... Petitioner

-VS-

1.The Secretary
Tamil Nadu Construction
Workers Welfare Board
Nungampakkam
Chennai-600 034

2.The Assistant Commissioner of Labour
(Social Security Scheme)
Tamil Nadu Housing Board
Commercial Complex
1st Floor, Ellis Nagar
Madurai-625 016

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned rejection order passed by the first respondent in the petitioner's application in Application No.TNUWWB0011720138, dated 28.09.2024 and the consequential order passed in the petitioner's application in Application No.TNUWWB0011976900, dated 03.10.2024, quash the same and further



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directing the respondents to renew the petitioner's membership with the first respondent Board and to pay the pensionary assistance to the petitioner.

For Petitioner : Mr.A.Jayaramachandran

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

ORDER

The petitioner herein, while working as a Mason, had applied for membership under the Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994 (hereinafter, referred to as “the Scheme, 1994”), by submitting an application before the second respondent and accordingly, he was enrolled as a Member with membership No.22MSON806455 and accordingly, his age was recorded as 33 years. The same is evident from the identity card issued to the petitioner, while enrolling him as a member of the said Scheme, 1994, with effect from 21.05.1997.

2. Thereafter, the membership of the petitioner was renewed from time to time and finally, the same was renewed on 03.09.2018 for a period of five years. In the meanwhile, the records pertaining to the said Scheme, which were maintained manually by then, were computerised during the



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month of June, 2020 and the petitioner was assigned a new membership number as 22MSON303016 as against the old membership No. 22MSON806455. Thus, the next renewal of the membership of the petitioner was due on 02.09.2023. However, the petitioner failed to submit an application on or before 02.09.2023 for renewal of his membership. But, he applied for renewal of his membership by submitting an application No.TNUWWB0011720138 on 20.09.2024 through online. But, the said application was rejected by the second respondent by passing an order dated 28.09.1994, on the ground that the petitioner has already attained the age of 60 years and therefore, he is not entitled for renewal of his membership.

3. Simultaneously, another application bearing No.TNUWWB0011976900 submitted by the petitioner for sanctioning of pensionary assistance was also rejected by the first respondent, by passing an order dated 03.10.2024, on the ground that the membership of the petitioner was not renewed. Aggrieved by the said orders, dated 28.09.2024 and 03.10.2024, passed by the first respondent rejecting the applications submitted by the petitioner seeking renewal of his membership and pensionary assistance, the petitioner has approached this Court by filing the present writ petition.



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4. As seen from the membership identity card issued in favour of the petitioner, the date of birth of the petitioner was not mentioned therein, but his age was mentioned as 33 years. It is the contention of the respondents that incase if no proof for the date of birth is produced by the member, the 1st July of the year of birth would be considered as the date of birth for all practical purposes in terms of the Letter No.W1/12875/08-2, dated 25.11.2009, issued by the Commissioner of Labour, Chennai. Thus, the date of birth of the petitioner was treated as 01.07.1964 for want of producing any proof for the date of birth by the petitioner at the time of his enrollment as a member in the Scheme in question.

5. Thus, it is the case of the respondents that the petitioner has completed 60 years of age by 01.07.2024 and therefore, the application for renewal submitted by the petitioner on 20.09.2024 was rightly rejected by the second respondent. However, it is the specific contention of the learned counsel for the petitioner that the date of birth of the petitioner is 29.09.1964 and therefore, he will be completing 60 years of age only by 29.09.2024 and whereas, the petitioner has submitted an online application for renewal of his membership on 20.09.2024 itself and therefore, the ground on which one of



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the impugned order dated 28.09.2024 came to be passed is totally unsustainable. Thus, it is the contention of the learned counsel for the petitioner that the petitioner has not completed the age of 60 years by the date of submission of application for renewal of his membership on 20.09.2024. He also further contended that the respondents failed to comply with the obligation under Section 6 of the Scheme, 1994, issued in G.O.Ms.No.198, Labour and Employment Department, dated 04.10.1994, and therefore, the impugned orders are liable to be set aside and the petitioner is entitled for release of pensionary assistance in terms of the Scheme, 1994.

6. On the other hand, Mr.S.Shanmugavel, learned Additional Government Pleader, appearing for the respondents, contended that the petitioner has not furnished any proof in support of his date of birth at the time of his enrollment and therefore, his age alone was mentioned and accordingly, 01.07.1964 was treated as his date of birth and rightly, the impugned proceedings came to be issued rejecting to renew the membership of the petitioner.

7. This Court has carefully considered the submissions made on either side and also perused the entire materials on record.



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8. The Scheme, 1994 introduced by the State, through G.O.Ms.No.198, Labour and Employment Department, dated 04.10.1994, is a beneficial Scheme benefiting the workers working in the Un-organized Sectors, like Construction Sector. Most of the workers working in the Construction Sector are undoubtedly uneducated.

9. Section 6 of the Scheme, 1994, provides for renewal of membership registration, which reads as under:

“Every manual worker whose name has been registered under clause (5) shall renew his/her initial registration or the subsequent renewal of his/her registration before the expiry of the period as specified in the Table below. If the registration is not renewed within the period stipulated in column (2) of the Table below, the Labour Officer (Social Security Scheme) of the respective District after due verification, shall take action as is specified in column (4) and column (5) corresponding to the period specified in columns (1) and (2) of the Table.”

10. From the above, it is evident that any member of the Scheme, 1994, is required to submit an application for renewal of his membership



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before the expiry of his membership and it also provides for a procedure in case if no such application is submitted for renewal. The procedure is provided in the Table provided under Section 6 of the Scheme, 1994, which reads as under:

<i>Date of Registration</i>	<i>Period before which registration should be renewed</i>	<i>1[***]</i>	<i>Period by which notice for cancellation of registration should be sent.</i>	<i>Period by which registration should be cancelled.</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<i>Any day between First January and Thirtieth June of a year</i>	<i>After five years from the date of initial registration or subsequent renewal but before Thirtieth June of that year</i>	<i>1[***]</i>	<i>After the expiry of the period specified in column (2) and on or after the First July but before Thirty – first August of that year.</i>	<i>If the registration is not renewed within one month after the issue of the notice specified in column 4.</i>
<i>Any day on or between First July and Thirty – first of December of a year</i>	<i>After five years from the date of initial registration or subsequent renewal but before Thirty-first of December of that year.</i>	<i>1[***]</i>	<i>After the expiry of the period specified in column (2) and on or after the First January but before 28th February of the succeeding year.</i>	<i>If the registration is not renewed within one month after the issue of the notice specified in column (4)</i>



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11. In terms of the said Table, any membership can be renewed before 30th June of the year, in which the initial registration for five years comes to an end in respect of the members, who got their membership registration done between 01st January and 30th June of the said year. So also, in respect of the members, who got their membership registration done between 01st July and 31st December of a year, they have to get their membership renewed on or before 31st December of the year in which their membership would expire. Incase, if any member failed to renew his membership even after expiry of the period specified in Column No.2 of the Table, the authority concerned is under obligation to issue a notice for cancellation of registration after expiry of the period specified in Column No.2 of the Table i.e., on or after 01st July but before 31st August of the relevant year in respect of registration of the membership done between 01st January and 31st June and in respect of registration of the membership done between 01st July and 31st December, such a notice of cancellation should be issued on or after 01st January but before 28th February of the succeeding year. In terms of Column No.5 of the Table, in case if the renewal of registration of the membership is not done within a period of one month from the date of service of notice, as stipulated under Column No.4, then the authority concerned is at liberty to proceed to cancel the registration of the membership.



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12. From the perusal of the Table provided under Section 6 of the Scheme, 1994, it is also evident that there is no automatic cancellation of registration for want of renewal of the membership, but the very Scheme provides that in case of failure on the part of the member to renew his membership, after putting such a member on notice and then after expiry of a period of one month and it is only in case if the member failed to submit an application for renewal of his membership within a period of one month from the date of service of notice of cancellation, the authority concerned is entitled to treat the membership as cancelled. Obviously, such a provision is made taking into consideration the fact that majority of workers working in the Construction Sector were uneducated and with a view to inform them about the expiry of their membership and necessity of submitting an application for renewal of their membership to continue to avail the benefits under the Scheme in question.

13. No doubt, in the instant case, in spite of the membership coming to an end on 02.09.2023, the petitioner has not submitted any application for renewal of his membership prior to 02.09.2023 or immediately thereafter till 20.09.2024. The fact remains that the obligation cast on the second respondent under Section 6 of the Scheme, 1994, of duly putting the



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member concerned of notice of expiry of his membership is failed to be discharged by the second respondent. When the Scheme, 1994, creates an obligation on the second respondent to put the member, whose membership has expired during the period specified in Column No.4 of the Table and the second respondent fails to discharge his obligation, the respondents cannot be permitted to take advantage of their failure in discharging their obligation, to put the member already enrolled under the Scheme in a disadvantageous position by rejecting their subsequent application for renewal either on the ground that the petitioner had attained the age of 60 years or any other ground.

14. Had the respondents discharged their obligation under Section 6 of the Scheme, 1994, in putting the petitioner on notice about the expiry of his membership and putting him on notice about the intending or proposal to cancel his membership, the petitioner, in all probabilities, would have submitted an application for renewal much before 01.07.2024 i.e., the date on which the petitioner is completing 60 years of age according to the respondents. But, the respondents failed to discharge their obligation, especially the petitioner was not afforded an opportunity to seek renewal of his membership as contemplated under Section 6 of the Scheme, 1994.



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Therefore, on this ground alone, the petitioner is entitled to seek renewal of his membership even at the belated stage and after completing 60 years of age. But for the failure on the part of the respondents, the petitioner would have got his membership renewed well before attaining the age of 60 years i.e., before 01.07.2024.

15. Be that as it may, according to the petitioner, his date of birth is 29.09.1964, but not 01.07.1964. Admittedly, it is not even the case of the respondents that the petitioner has furnished his date of birth as 01.07.1964 either at the time of registration of his membership or at a later point of time. But, it is only, on the ground that the age of the petitioner was recorded as 33 years, the year 1964 was taken as the year of birth of the petitioner and in terms of the Letter dated 25.11.2009 of the Commissioner of Labour, Chennai, 01st July of the year 1964 was treated as date of birth of the petitioner.

16. As seen from the materials on record, especially the Aadhar Card of the petitioner, his date of birth is shown as 29.09.1964. Further, the petitioner also placed a copy of his Family Ration Card issued by the State Authorities, which also disclose his date of birth as 29.09.1964. If the said date, namely, 29.09.1964 is taken into consideration as his date of birth, the



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application that was submitted by the petitioner for renewal of his membership on 20.09.2024 is prior to the date on which the petitioner attains the age of 60 years. But the said application was rejected only on the ground that the petitioner had already attained the age of 60 years and therefore, he is not entitled to seek renewal of his membership. But, the respondents have not undertaken any exercise to ascertain the correct date of birth of the petitioner, as admittedly 01.07.1964 was taken as the date of birth of the petitioner in terms of the Letter dated 25.11.2009 issued by the Commissioner of Labour, Chennai, but not based on any other substantial material. In the light of the Aadhar Card and Family Ration Card of the petitioner, which are placed before this Court, evidencing his date of birth as 29.09.1964, this Court is constrained to accept the date of birth of the petitioner as 29.09.1964. If that is accepted as the date of birth of the petitioner, the impugned order dated 28.09.2024 rejecting the application of the petitioner seeking renewal of membership on the ground that he has already attained the age of 60 years cannot be sustained.

17. Further, as already noted above, the very Scheme in question is a beneficial and social welfare Scheme and admittedly, the petitioner himself got enrolled on 21.05.1997 and renewed his membership from time to



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time till 02.09.2023. But, while he was due for completing the age of 60 years either by 01.07.1964 or as per the Aadhar Card or Family Ration Card, wherein his date of birth is shown as 29.09.2064, mere failure of the petitioner to renew his membership for about one year after having got the same renewed from time to time for more than twenty years, the petitioner can be deprived of the benefits provided under the Scheme in question or not is the yet another question to be considered.

18. As already noted above, the petitioner got his membership renewed for more than twenty years years by duly remitting the contributions in terms of the Scheme in question and also in the light of the conclusion arrived at by this Court holding there is failure on the part of the respondents in discharging their obligation under Section 6 of the Scheme, 1994 in putting the petitioner on notice intimating about necessity of renewing his membership and the proposal to cancel the same, in case if not renewed, in the considered view of this Court, the petitioner, under no circumstance, can be deprived of the benefit under the Scheme in question and every endeavour should be made only in furtherance of the object of the Scheme in question, but not to dilute the purpose of the Scheme in question or to deny the benefits of the Scheme in favour of the beneficiaries.



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19. In the light of the above, the impugned order dated 28.09.2024, passed by the first respondent rejecting the application submitted by the petitioner seeking renewal of his membership cannot be sustained. Equally, the order, dated 03.10.2024, passed by the first respondent rejecting the application submitted by the petitioner seeking pensionary assistance etc., also cannot be sustained.

20. In the light of the above, the impugned orders, dated 28.09.2024 and 03.10.2024, passed by the first respondent, are set aside and the matter is remanded back to the first respondent to consider the applications submitted by the petitioner for renewal of his membership under the Scheme, 1994, and for pensionary assistance in terms of the Scheme, 1994, afresh and to pass appropriate orders extending the benefits of the Scheme, 1996, in favour of the petitioner by duly renewing his membership. The first respondent is further directed to complete the exercise, as directed above, as expeditiously as possible, at any rate within a period of two months from the date of receipt of a copy of this order.



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21. Accordingly, this writ petition is allowed. No costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The Secretary,
Tamil Nadu Construction
Workers Welfare Board,
Nungampakkam,
Chennai-600 034.
- 2.The Assistant Commissioner of Labour,
(Social Security Scheme),
Tamil Nadu Housing Board
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