



WEB COPY

W.P.(MD) Nos.14128 & 14130 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) Nos.14128 & 14130 of 2022

and

W.M.P.(MD) No.10092 of 2022

W.P.(MD) No.14128 of 2022:

Sudha

... Petitioner

-VS-

- 1.The State of Tamil Nadu
rep.by its Secretary
Municipal and Water Supply Department
Fort St.George, Chennai-600 009
- 2.The Director
Local Fund Audit Department
Finance Department Complex
4th Floor, Nandhanam
Chennai-600 035
- 3.The Director of Municipalities
Kuralagam Buildings
Chennai-600 108
- 4.The Assistant Director
Local Fund Audit Department
Karur



WEB COPY

W.P.(MD) Nos.14128 & 14130 of 2022

5.The Executive Officer
Marudhur Town Panchayat
Marudhur, Kulithalai Taluk
Karur District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records in pursuant to the impugned order made in Moo.Mu.No.13547/Pe.O.Sa(1)/2020 dated 21.08.2020 issued by the 2nd respondent herein, quash the same as illegal and consequently directing the 5th respondent to pay the pensionary terminal and death benefits of the petitioner's husband to the petitioner with rate of 18% interest per annum.

For Petitioner : Mr.K.R.Laxman
for Mr.V.Natarajan

For Respondents : Mr.A.Baskaran
Additional Government Pleader

W.P.(MD) No.14130 of 2022:

Prema

... Petitioner

-vs-

1.The State of Tamil Nadu
rep.by its Secretary
Municipal and Water Supply Department
Fort St.George, Chennai-600 009



W.P.(MD) Nos.14128 & 14130 of 2022

WEB COPY

- 2.The Director
Local Fund Audit Department
Finance Department Complex
Near Veterinary University
Nandhanam
Chennai-600 035
- 3.The Director of Municipalities
Kuralagam Buildings
Chennai-600 108
- 4.The Assistant Director
Local Fund Audit Department
Karur
- 5.The Executive Officer
Marudhur Town Panchayat
Marudhur, Kulithalai Taluk
Karur District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents to pay the petitioner terminal and pensionary benefits along with earned leave wages, provident fund and gratuity with 18% interest for the period of delay from 03.12.2006 i.e. date of death of the petitioner's husband to till today.

For Petitioner : Mr.K.R.Laxman
for Mr.V.Natarajan

For Respondents : Mr.A.Baskaran
Additional Government Pleader



WEB COPY

W.P.(MD) Nos.14128 & 14130 of 2022

COMMON ORDER

The issue involved in these writ petitions is whether a person is entitled to receive family pension when the employee had died while in service, whose services were regularized subsequent to 01.04.2003, when the Contributory Pension Scheme was introduced, though the said employee was appointed prior to 01.04.2003.

2. In both the writ petitions, the eligible persons, who are entitled to receive family pension as per law, have made representations seeking for payment of family pension, as according to them, G.O.No.259, Finance (Pension) Department, dated 06.08.2003, applies to them, since the employees were recruited to the subject post prior to 01.04.2003, though their services were regularized only thereafter.

3. Learned counsel for the petitioners drew the attention of this Court to the following authorities in support of his contention that the word “recruitment” found in G.O.No.259, Finance (Pension) Department, dated 06.08.2003, will denote that the respective employees in these writ petitions



W.P.(MD) Nos.14128 & 14130 of 2022

WEB COPY

are entitled for pension as per the said Government Order, since they were appointed even prior to 01.04.2003:

- (a) A Single Bench order of the Madras High Court in the case of ***S.Mary Sherly vs. Secretary to Government, Education Department, Chennai and others***, reported in ***(2013) 3 MLJ 56***.
- (b) A Division Bench Judgment dated 14.03.2018, passed in W.A.(MD) No.370 of 2018, in the case of ***Secretary to Government, Education Department, Fort St.George, Chennai and others vs. S.Mary Sherly and another***.

4. However, learned Additional Government Pleader appearing for the respondents would reiterate the contents of the counter filed by the respondents before this Court and would submit that since the respective employees were regularized only after 01.04.2003, the respective petitioners are not entitled to receive family pension. He would also submit that both the writ petitions have to be dismissed, on the ground of laches. According to him, since the respective employees died long time back i.e., Annadurai died



W.P.(MD) Nos.14128 & 14130 of 2022

WEB COPY

on 09.10.2013 and Duraipandian died on 03.12.2006, the writ petitions filed by the respective petitioners in the year 2022 are to be dismissed on to the ground of laches.

5. The decisions relied upon by the learned counsel for the petitioners will not apply to the facts of the instant case for the following reasons:

- (a) In the Single Bench order of the Madras High Court in the case of ***S.Mary Sherly vs. Secretary to Government, Education Department, Chennai and others***, reported in ***(2013) 3 MLJ 56***, that was a case dealing with a situation where the employee was not allowed to join employment prior to 01.04.2003 even though he was appointed to the subject post and only after 01.04.2003, he was allowed to join employment to the subject post. The petitioner therein was also a physically challenged person. Only under those circumstances, by giving a



WEB COPY



W.P.(MD) Nos.14128 & 14130 of 2022

liberal and purposive interpretation to G.O.No. 259, Finance (Pension) Department, dated 06.08.2003, the petitioner in the aforesaid decision was granted family pension by this Court. However, in the case on hand, such a situation did not arise for the respective employees, who died and whose legal representatives are seeking for family pension through these writ petitions. The respective employees were appointed prior to 01.04.2003 and they had also joined service on the appointed date without any hindrance whatsoever and they have been working since the respective dates of employment i.e., Annamalai joined duty on 01.09.1996 and Duraipandian joined duty on 19.06.2000. Admittedly, both the employees were regularized into service only after 01.04.2003 and as per G.O.No.259, Finance (Pension) Department,



WEB COPY



W.P.(MD) Nos.14128 & 14130 of 2022

dated 06.08.2003, they are entitled only to Contributory Pension Scheme. The interpretation given by the learned Single Judge in the decision relied upon by the learned counsel for the petitioners reported in **(2013) 3 MLJ 56** cannot be applied to the case of the respective petitioners in these writ petitions due to the aforementioned reason.

- (b) Even though the Division Bench of this Court, by its Judgment dated 14.03.2018, passed in W.A.(MD) No.370 of 2018, in the case of **Secretary to Government, Education Department, Fort St.George, Chennai and others vs. S.Mary Sherly and another**, has upheld the decision of the learned Single Judge reported in **(2013) 3 MLJ 56**, as observed earlier by this Court, since the facts of the case in the aforesaid decision relied upon by the learned counsel for the petitioners has no bearing for the



WEB COPY

W.P.(MD) Nos.14128 & 14130 of 2022

facts of these writ petitions, the Division Bench Judgment relied upon by the learned counsel for the petitioners has also got no bearing for deciding the issue in these writ petitions.

6. Learned counsel for the petitioners also relied upon another order dated 16.02.2015, passed in W.P.(MD) No.16049 of 2014, in the case of ***R.Kesavan vs. State of Tamil Nadu and others***, which was also passed by the very same learned Single Judge, who had passed the order, which was reported in ***(2013) 3 MLJ 56***, referred to supra. Infact, even though the learned Single Judge, while interpreting G.O.No.259, Finance (Pension) Department, dated 06.08.2003, has made it clear in Paragraph No.8 of his order dated 16.02.2015 that the words “recruited employees” used in the Government Order, namely, G.O.No.259, Finance (Pension) Department, dated 06.08.2003, would mean that the same is applicable to the person, who was selected and appointed to the service on or after 01.04.2003 not in respect of a person, who joined the service either on temporary basis on on consolidated pay basis much earlier to the date of the said Government Order, inadvertently, by following his earlier decision reported in ***(2013) 3 MLJ 56***,



W.P.(MD) Nos.14128 & 14130 of 2022

WEB COPY

which do not have any bearing to the facts of the case involved in W.P.(MD) No.16049 of 2014, in the case of ***R.Kesavan vs. State of Tamil Nadu and others***, has, however, allowed the writ petition by following the decision reported in ***(2013) 3 MLJ 56***, which may not be correct. Learned counsel for the petitioners cannot rely upon the order dated 16.02.2015, passed in W.P. (MD) No.16049 of 2014, in the case of ***R.Kesavan vs. State of Tamil Nadu and others***, as the said order was passed due to inadvertence by mistakenly applying the decision rendered by the very same learned Single Judge reported in ***(2013) 3 MLJ 56***, wherein the facts were different.

7. The petitioners have also not stated in the affidavits filed in support of these writ petitions as to whether similarly placed persons, who were also appointed prior to 01.04.2003, but were regularized subsequent to 01.04.2003, have been given the benefit of G.O.No.259, Finance (Pension) Department, dated 06.08.2003. The affidavits are also bereft of those details, which are indeed necessary for giving the benefit to the petitioners.

8. For the foregoing reasons, this Court does not find any merit in these writ petitions and the same are, therefore, dismissed. However, if the



W.P.(MD) Nos.14128 & 14130 of 2022

WEB COPY

respective petitioners are entitled for contributory pension amount, as per the Contributory Pension Scheme, the respondents are directed to pay the same to them within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

17.11.2025

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

krk

To:

- 1.The Secretary,
Municipal and Water Supply Department,
State of Tamil Nadu,
Fort St.George, Chennai-600 009.
- 2.The Director,
Local Fund Audit Department,
Finance Department Complex.
4th Floor, Nandhanam,
Chennai-600 035.
- 3.The Director of Municipalities,
Kuralagam Buildings,
Chennai-600 108.
- 4.The Assistant Director,
Local Fund Audit Department,
Karur.



W.P.(MD) Nos.14128 & 14130 of 2022

WEB COPY

5.The Executive Officer,
Marudhur Town Panchayat,
Marudhur, Kulithalai Taluk,
Karur District.



WEB COPY



W.P.(MD) Nos.14128 & 14130 of 2022

ABDUL QUDDHOSE, J.

krk

W.P.(MD) Nos.14128 & 14130 of 2022
and
W.M.P.(MD) No.10092 of 2022

17.11.2025