



W.P.(MD)No.17329 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

W.P.(MD)No.17329 of 2020

Muthukutty,
W/o.Late V.Esakkiappan (Retired Village Assistant),
South Street,
Radhapuram,
Tirunelveli District - 627 111.

Petitioner

*(cause title amended vide Court order dated 01.12.2020 made in W.P.(MD)
No.17329 of 2020)*

Vs

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Taluk Office,
Radhapuram,
Tirunelveli District.

3.The Principal Accountant General (A&E),
Tamil Nadu,
No.361, Annasalai,
Chennai - 600 018.

Respondents

*(R-3 is suo motu impleaded vide Court Order dated 28.02.2024 in W.P.(MD)
No.17329 of 2020)*

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for
issuance of Writ of Mandamus, directing the Respondents to implement the



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order passed by this Court in W.P.(MD)No.12216 of 2008 dated 09.01.2009 to settle entire pensionary benefits from the date of retirement of the Petitioner's husband and further to sanction the payment for monthly family pension with arrears to the Petitioner within the stipulated time.

For Petitioner : Mr.M.Sathiamoorthy

For Respondents : Mr.M.Ajmalkhan
Additional Advocate General
Assisted by,
Mr.D.Sadiq Raja
Additional Government Pleader
R-1 & R-2

Mrs.S.Mahalakshmi
R-3

ORDER

Heard Mr.M.Sathiamoorthy, learned counsel for the Petitioner, Mr.M.Ajmalkhan, learned Additional Advocate General, assisted by, Mr.D.Sadiq Raja, learned Additional Government Pleader for the Respondents 1 & 2 and Mrs.S.Mahalakshmi, learned counsel for the 3rd Respondent.

2. When the matter was taken up for hearing on 17.02.2025, this Court passed the following order:

"Mr.M.Sathiamoorthy, learned counsel for the petitioner submits that the petitioner herein has already moved a writ petition in W.P.(MD)No.12216 of 2008, and this Court, vide order dated 09.01.2009, passed the following order:

"4. The Hon'ble Apex Court in A.P.Srivatsava v.



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Union of India and others reported in 1996 (1) LLJ 241 has held that even a temporary Government Servant who rendered sufficient service is entitled for pensionary benefits. The order of the Apex Court is extracted hereunder:

“Pension is not a charity or a bounty not it is conditional payment solely dependent on the sweet will of the employer. It is earned for rendering a long service and is often described as deferred portion of payment for past services. It is in fact in the nature of social security plan provided for a superannuated Government Servant. If a temporary Government servant who has rendered 20 years of service is entitled to pension, if he voluntarily retires, there is no jurisdiction for denying the right to him when he is required to retire by the employer in the public interest. In other words, the condition precedent for being entitled to pension in case of a temporary Government Servant is rendering of 20 years of service.”

5. Considering the fact that the petitioner's husband was appointed on 06.01.1961 as Thalayari in Radhapuram Taluk and rendered more than 34 years of service and retired on 30.06.1995 on attaining the age of superannuation. The petitioner being the wife is entitled for family pension.

6. In view of the same, the impugned order dated 10.08.2007 is liable to be set aside and accordingly set aside. The Writ Petition stands allowed. The respondents are directed to settle the entire pensionary benefits to the petitioner. Further, the respondents are directed to pass orders for payment of monthly family pension to the petitioner. The said exercise has to be carried out within a period of 8 weeks from the date of receipt of a copy of this order. No costs.”



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2. Thereafter, the said order was not complied with by the 1st respondent/District Collector, Tirunelveli District. Being aggrieved by the action of the 1st respondent/District Collector, the petitioner made several representations, running from pillar to post. When the District Collector, Tirunelveli, paid no heed, the petitioner filed present writ petition, W.P.(MD)No.17329 of 2020, and when the matter was taken up for hearing on 01.12.2020, this Court passed the following order:

"2.The learned counsel appearing for the petitioner would submit that the petitioner herein has already moved a writ petition in W.P (MD) No.12216 of 2008, wherein this Court by an order dated 9.01.2009, directed the respondents to settle the entire pensionary benefits to the petitioner. Further this Court also directed the respondents to pass orders for payment of monthly family pension to the petitioner and the said exercise shall be carried out within a period of eight weeks. In spite of the order passed by this Court dated 09.01.2009, the respondent has not taken any steps to settle the pensionary benefits and paid the family pension to the petitioner. In this regard, the petitioner has given several representations lastly on 13.02.2020. However, the respondents has not taken any steps to consider the same till date. Hence, without any other options, the petitioner approach this Court by way of present writ petition for appropriate relief.

3.Though the petitioner requested the Court to dispose of the representation dated 13.02.2020, this Court is of the opinion that if this Court will pass an order in the present writ petition, the same will also go to cold storage as the respondents deliberately failed to comply the order passed by this Court on 09.01.2009.

4.In view of the above, this Court directs the respondents to comply with the order passed by this Court dated 09.01.2009 in W.P (MD) No.12216 of



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2008 within a period of two weeks and report the compliance before this Court on 17.12.2020.

5.The learned counsel appearing for the petitioner submit that in the cause title it is wrongly printed as Muthukutty, S/o. Late V.Esakkiappan instead of Muthukutty, W/o. Late V.Esakkiappan.

6.Registry is directed to carry out the necessary amendment in the cause title.

7.Post the matter on 17.12.2020 under the caption of orders.”

3. The learned counsel for the petitioner submits that despite the order dated 01.12.2020, which directed the District Collector to comply with the order dated 09.01.2009 passed in W.P.(MD)No.12216 of 2008 within two weeks and report compliance to this Court on 17.12.2020, no order has been passed by the District Collector, Tirunelveli till date. This shows the deliberate non-compliance of the District Collector, who is flouting two orders of this Court dated 09.01.2009 and 01.12.2020. Thus, it was argued that strict action be taken against the concerned District Collector, Tirunelveli, who has been entrusted with the responsibility of the district and is duty-bound to comply with the orders passed by this Court.

4. Mr.D.Sadiq Raja, the learned Additional Government Pleader, informed the Court that the process is ongoing, but he could not provide a timeline for compliance with the order dated 09.01.2009, which is over 15 years old. Despite the petitioner's relentless efforts to claim his rightful money, the government has failed to take necessary actions, leaving the petitioner frustrated and helpless. Thus, the justification offered by the learned Additional Government Pleader fails to evoke any sympathy from the Court towards the officer, who has demonstrated gross incompetence in discharging his duties as the District Collector.



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5. Accordingly, the District Collector, Tirunelveli is granted a final opportunity to comply with the order dated 09.01.2009 passed in W.P.(MD)No.12216 of 2008 and interim order dated 01.12.2020 passed in W.P.(MD)No.17329 of 2020, without fail, and to file a compliance report before this Court within 48 hours. The District Collector shall appear in person on 19.02.2025 at 10:30 a.m., accompanied by the compliance report”.

3. When the matter was taken up for hearing on 19.02.2025, this Court passed the following order:

3. In compliance with the order passed by this Court dated 17.02.2025, Mr.Sukumar, presently serving as the District Collector, Tirunelveli is present in person before this Court and has filed an affidavit of compliance.

4. Mr. M. Ajmal Khan, learned Additional Advocate General, appearing on behalf of the District Collector/Respondent No.1, submits that the proceedings regarding compliance with the orders passed by this Court dated 09.01.2009 in W.P.(MD) No.12216 of 2008 and 01.12.2020 in the present writ petition have been initiated and forwarded to the concerned authorities.

5. Upon perusing the compliance affidavit submitted by Mr.Sukumar, District Collector, Tirunelveli, today, this Court is not satisfied with the stand taken by the District Collector, as it appears that he is merely passing the time and diluting the orders passed by this Court. Despite the clear directions given by this Court vide orders dated 09.01.2009, 01.12.2020 and 17.02.2025, this Court remains unsatisfied with the explanation



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and affidavit filed by the District Collector, Tirunelveli.

6. Mr. Ajmal Khan, the learned Additional Advocate General, requests this Court to grant one more opportunity to comply with the orders passed by this Court dated 09.01.2009 and 01.12.2020, within a period of 10 days from today. He assures the Court that the said orders will be complied with in its spirit and that all necessary efforts will be taken by the District Collector, Tirunelveli, Mr. Sukumar, who is present before this Court. Furthermore, Mr. Sukumar, the District Collector, Tirunelveli, request for one more chance to comply the orders of this Court and assures the Court that he will comply with the orders passed by this Court dated 09.01.2009 and 01.12.2020 and that any retirement dues owed to the petitioner will be paid on or before the next date fixed by this Court.

7. On the assurance given by Mr. Sukumar, the District Collector of Tirunelveli, and by Mr. Ajmal Khan, the learned Additional Advocate General, this court grants a last opportunity to the District Collector/ Respondent No.1 to comply with the order dated 09.01.2009 passed in W.P.(MD).No.12216 of 2008 and order dated 01.12.2020 passed in this writ petition without fail and file an affidavit of compliance in this regard.

8. Further, this Court in the interest of justice directs the Respondents to pay the interest at the rate of 6% per annum on the delayed payment from the date of order passed by this Court dated 09.01.2009 passed in W.P.(MD)No.12216 of 2008 till the actual payment is made, to the Petitioner

9. The personal appearance of Mr. Sukumar, the District Collector of Tirunelveli, is exempted by the court until further



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orders.

10. Put up this case on **04.03.2025** before this Court for further orders.

4. In compliance with the order passed by this Court on 19.02.2025, Mr.M.Ajmal Khan, learned Additional Advocate General on behalf of the Respondents 1 & 2, has produced an order dated 03.03.2025, passed by the District Collector, Tirunelveli District, along with a compliance affidavit before this Court, and submits that the respondents have made full compliance with the orders passed by this Court 09.01.2009 in W.P.(MD).No.12216 of 2008 and on 01.12.2020 in the present writ petition. A copy of the order has also been taken on record. The relevant portions of the compliance affidavit, in paragraphs 6, 7, and 8, are reproduced below:

“6. It is respectfully submitted that on receipt of said proposal the Additional Chief Secretary to Government of Tamil Nadu, Revenue and Disaster Management Department, Chennai have considered the case as special case and have issued G.O.(2D)No.128, Revenue and Disaster Management (pani(8)(1) Department, dated 27.02.2025 sanctioning family pension by granting exemption for Rule 9(iii) of Tamil Nadu Village Assistant Pension Rules as special case. By placing reliance on the said Government Order, the District Collector/Tirunelveli vide proceedings in



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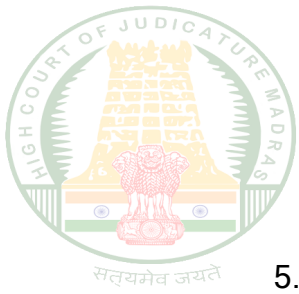


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Na.Ka.A5/35815/2020, dated 01.03.2025 have directed to disburse the monetary benefits and family pension to the petitioner herein.

“7. It is respectfully submitted that pursuant to issuance of G.O.(2D)No.128, Revenue and Disaster Management (pani(8)(1) Department, dated 27.02.2025 and proceedings in Na.Ka.A5/35815/2020, dated 01.03.2025 issued by the District Collector, Tirunelveli, family pension proposal was processed by the 3^d Respondent herein and have issued pension payment order vide PPO.No.D0128796, dated 28.02.2025 and family pension arrears to the tune of Rs.2,08,224/- were sanctioned and paid to the Petitioner through ECS in her Bank Account No.029100050076020 maintained with the TamilNadu Mercantile Bank Limited, Radhapuram Branch on 03.03.2025 itself.

8. It is respectfully submitted that by placing reliance on G.O.(2D)No.128, Revenue and Disaster Management (pani(8)(1) Department, dated 27.02.2025 and proceedings in Na.Ka.A5/35815/2020, dated 01.03.2025 issued by the District Collector, Tirunelveli, the Tahsildhar, Radhapuram have issued proceedings in Na.Ka.A8/10250/2015, dated 03.03.2025 have calculated and directed to disburse a sum of Rs.86,197/- towards interest and the same was paid to the Petitioner vide cheque bearing No.601905, dated 03.03.2025, drawn at Indian Overseas Bank, Radhapuram Branch.”



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5. Mr.M.Ajmal Khan, the learned Additional Advocate General for the Respondents 1 & 2, reiterated the averments made in the compliance affidavit filed in support of this writ petition and submitted that the respondents have fully complied with the order passed by this Court dated 09.01.2009 in W.P.(MD).No. 12216 of 2008, as well as the orders passed by this Court in the present writ petition on 01.12.2020 and 19.02.2025. He further stated that the entire amount due to the petitioner has been paid. Therefore, he requested that the present writ petition may be disposed of accordingly.

6. Mrs.S.Mahalakshmi, the learned counsel for the 3rd Respondent, concurred with the submissions made by the Additional Advocate General.

7. Mr.M.Sathiamoorthy, learned counsel for the petitioner, submitted that in compliance with the order passed by this Court on 19.02.2025, the respondents have fully complied with the directions issued by this Court dated 09.01.2009 passed in W.P.(MD).No.12216 of 2008, as well as the orders passed by this Court in the present writ petition on 01.12.2020. He further stated that the petitioner has received the entire amount due, and therefore, no amount is outstanding. In view of this, the learned counsel for the petitioner requested that the present writ petition may be disposed of accordingly.



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8. After considering the submissions made by the learned counsels for both parties and perusing the records and averments made in the compliance affidavit filed by the District Collector, particularly in paragraphs 7 and 8 of the affidavit, this Court is satisfied that the respondents have complied with the order of this Court dated 09.01.2009 passed in W.P.(MD)No.12660 of 2008, as well as the directions issued by this Court dated 01.12.2020 and 19.02.2025 in the present writ petition. Furthermore, this Court is satisfied that the order has been fully complied with and the entire amount due to the petitioner has been paid by the respondents.

9. Accordingly, in view of the observations and submissions made above, this writ petition is hereby finally disposed of. There shall be no order as to costs.

04.03.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
- 2.The Tahsildar,
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- 3.The Principal Accountant General (A&E),
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SHAMIM AHMED, J.

Nsr

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