



W.P.(MD)No.19582 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.19582 of 2025

R.Dhatchanamurthy

... Petitioner

-VS-

1.The Director of Medical and Rural Health Services,
DMS Campus, Teynampet,
Chennai - 600 006.

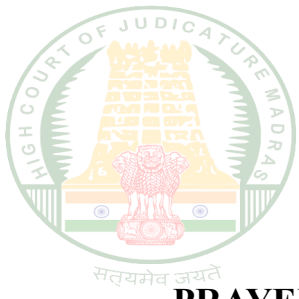
2.The Joint Director,
Medical and Rural Health Service,
Kumbakonam Division,
Thanjavur District – 612 001.

3.The Medical Officer,
Government Headquarters Hospital,
Pattukottai,
Thanjavur District - 614 601.

4.The Principal Citizenship Officer,
Government Headquarters Hospital,
Pattukottai, Thanjavur District – 614 601.

5.The Inspector of Police,
Pattukottai Town Police Station,
Thanjavur District – 614 601.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to disburse the retirement benefits and all other service benefits payable to the petitioner's father by considering the petitioner's representation dated 20.12.2023, within a time frame as may be fixed by this Court.

For Petitioner : Mr.B.Sargunam

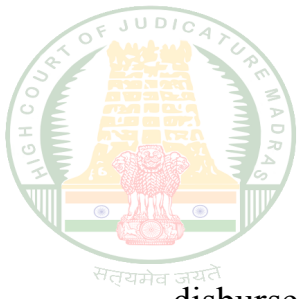
For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

This Writ Petition is filed seeking a direction to the respondents to disburse the retirement benefits and all other service benefits payable to the petitioner's father, by considering the petitioner's representation dated 20.12.2023, within a time frame to be fixed by this Court.

2. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

3. The learned counsel for the petitioner submits that the present Writ Petition has been filed seeking appropriate directions to the respondents to

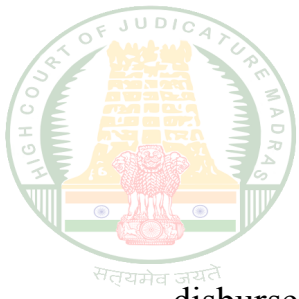


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disburse the retirement and service-related benefits of the petitioner's father, M.Ramalingam, who went missing on 10.04.2016 while serving as a 'Sanitary Worker' under the fourth respondent. A police complaint was lodged in Crime No. 198/2016 and despite repeated representations, including the latest dated 20.12.2023, no benefits have been extended to the family till date.

4. It is further submitted that, as per G.O.Ms.No.478, Finance Pension Department, dated 04.06.1987, issued by the Government of Tamil Nadu and O.M.No.1/9488/F & KPW dated 29.08.1986 issued by the Government of India, a Government servant missing for more than seven years is to be presumed 'dead' and the legal heirs are entitled to all terminal and retirement benefits. In this case, although more than seven years have elapsed since the disappearance, the respondents have failed to act in accordance with these statutory guidelines.

5. The inaction on the part of the respondents has caused grave financial and emotional hardship to the petitioner's family. Therefore, the learned counsel prays that this Court may be pleased to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 20.12.2023 and



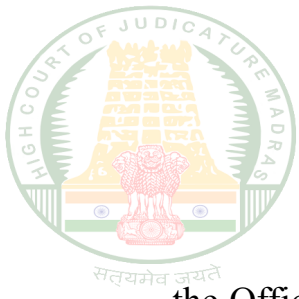
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disburse all lawful dues, including salary arrears, leave encashment, GPF and pensionary benefits, within a reasonable time as fixed by this Court.

6. The learned Special Government Pleader submits that the present Writ Petition is not maintainable, as per G.O.(Ms)No.78, Labour and Employment (Q) Department, dated 17.07.1998, which stipulates that the legal heirs or dependants of a missing Government servant may be considered for the benefits only when a competent Civil Court has declared the missing Government servant as 'dead', in accordance with Sections 107 and 108 of the Indian Evidence Act, 1872.

7. Upon consideration of the submissions made by the learned counsel for the petitioner and the learned Special Government Pleader, this Court is of the view that the present Writ Petition is not maintainable at this stage.

8. It is not in dispute that the petitioner's father, a Sanitary Worker under the fourth respondent, has been missing since 10.04.2016 and that a police complaint has been registered in Crime No.198/2016. While the petitioner has relied upon G.O.Ms.No.478, Finance Pension Department, dated 04.06.1987 and

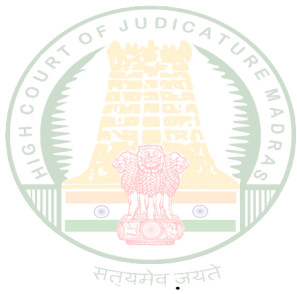


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the Office Memorandum dated 29.08.1986 to claim entitlement of retirement and service benefits after a lapse of more than seven years, the learned Special Government Pleader has rightly pointed out that as per G.O.(Ms)No.78, Labour and Employment (Q) Department, dated 17.07.1998, such benefits to the legal heirs or dependants of a missing Government servant may be considered only upon a formal declaration of death by a competent Civil Court under Sections 107 and 108 of the Indian Evidence Act, 1872.

9. This Court is bound by the said Government Order, which clearly mandates that a presumption of death can only arise upon a Civil Court declaration. In the absence of such a declaration, the authorities are not in a position to process the retirement and terminal benefits as claimed by the petitioner.

10. Accordingly, this Court is not inclined to grant the relief sought under Article 226 of the Constitution of India at this juncture. However, the petitioner is granted liberty to approach the competent Civil Court for necessary declaration regarding the presumed death of his father. Upon obtaining such a declaration, it



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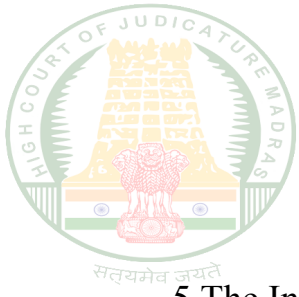
is open to the petitioner to make a fresh representation to the appropriate authority for consideration of the benefits in accordance with law. Hence, the Writ Petition is dismissed with liberty to the petitioner to approach the Civil Court for appropriate relief. No costs.

NCC : Yes / No
Index : Yes / No
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21.07.2025

To:-

- 1.The Director of Medical and Rural Health Services,
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Chennai - 600 006.
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VIVEK KUMAR SINGH, J.

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