



W.A(MD)No.1321 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A(MD)No.1321 of 2019

1.The Union of India,
Represented by the Chairman,
Ordnance Factory Board,
10-A, S.K.Bose Road,
Calcutta – 1.

2.The General Manager,
Ordnance Factory,
Tiruchirappalli – 620 016.

... Appellants

vs.

1.S.Robert (died)
2.Mallika
3.R.Kindsly
4.R.Angel
5.R.Princly
6.R.Ruby

... Respondents

(RR 2 to 6 are impleaded as Lrs of the deceased
sole respondent vide order dated 14.03.2025
made in C.M.P(MD)No.10829 of 2022)



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PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 30.01.2017 made in W.P(MD)No.1644 of 2009 on the file of this Court.

For Appellants : Mr.P.Subbiah
Central Government Senior Panel Counsel

For R – 1 : Died

For RR 2 to 6 : Mr.Mohammed Sherbudeen
for Mr.G.Balaji

JUDGMENT

(Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.)

The Union of India, Represented by the Chairman and the General Manager, Ordnance Factory Board, are the appellants in the present intra-court appeal filed against the impugned writ order dated 30.01.2017 passed in W.P(MD)No.1644 of 2009.

2.Pending the Writ Appeal, the first respondent died and his legal representatives were impleaded as respondents 2 to 6.



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3.The deceased first respondent was an employee in the Ordnance Factory Board and disciplinary proceedings were initiated against him. He was placed under suspension and he filed O.A.No.272 of 1996 before the Central Administrative Tribunal, Madras Bench, challenging the ad-interim suspension order. The Central Administrative Tribunal dismissed the original application as infructuous, mainly on the ground that the deceased first respondent was terminated from service during the pendency of the original application. Challenging the order of termination, the deceased first respondent filed O.A.No.719 of 1998 and along with the original application, he filed Miscellaneous Application No.342 of 1998 to condone the delay in filing the original application under Section 21 of the Administrative Tribunals Act, 1985. The Tribunal has not considered the application and dismissed both the Miscellaneous Application as well as the Original Application. The said order remains unchallenged and the deceased first respondent has not preferred any Writ Petition challenging the final order passed by the Central Administrative Tribunal.



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4. After a lapse of about 11 years from the date of passing of the final order by the Central Administrative Tribunal, the deceased first respondent filed W.P(MD)No.1644 of 2009, challenging the very same termination order dated 01.08.1996. The Writ Petition was allowed by the learned Single Judge. Thus, the Union of India preferred the present Writ Appeal.

5. Without advertent to the facts established in the present case, the Writ Petition is liable to be rejected in limine, mainly on the ground that it is barred by the principles of *res judicata*. The original jurisdiction lies with the Central Administrative Tribunal. In the present case, pertinently, the deceased first respondent initially approached the Central Administrative Tribunal challenging the order of suspension and he also challenged the order of termination subsequently, which came to be dismissed by the Central Administrative Tribunal. Instead of preferring an appeal against the final order passed by the Central Administrative Tribunal, the deceased first respondent waited for about 11 years and filed a fresh Writ Petition before the Madurai Bench of Madras High Court, challenging the very same order, which was the subject matter of challenge before the Tribunal in M.A.No.342 of 1998 in



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O.A.No.719 of 1998. Therefore, the Writ Petition ought to have been rejected on the grounds of laches and by applying the principles of *res judicata*. Contrarily, the writ Court has adjudicated the issues on merits and allowed the same, which, in the opinion of this Court, is an error apparent and thus, the present Writ Appeal deserves to be considered.

6.Accordingly, the writ order impugned dated 30.01.2017 passed in W.P(MD)No.1644 of 2009 is set aside and the Writ Appeal stands allowed. There shall be no as to costs.

[S.M.S.,J.] & [A.D.M.C.,J.]
18.06.2025

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

To

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ORDER MADE IN
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