BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2026

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.A(MD)No.1461 of 2022

The Authorised Officer,
Employees' Provident Fund Organisation,
1-Lady Doak College Road,
Bhavishya Nidhi Bhavan,
Chockkikulam,
Madurai – 625 002. ... Appellant / 2nd Respondent

Vs.

1.P.Paramasivam ... 1st Respondent / Petitioner

2.The District Manager /
Supervisor,
TASMAC Limited,
Dindigul. ... 2nd Respondent / 1st Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to allow this Writ Appeal by setting aside the orders passed by this Court in W.P(MD)No.11424 of 2014 dated 15.11.2021.

For Appellant : Mr.A.John Xavier

For Respondents : Mr.N.Mohan
for R.1

Mr.H.Arumugam for R.2

JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

The Regional Provident Fund Commissioner, Employees' Provident Fund Organization, Madurai has filed this writ appeal questioning the order dated 15.11.2021 made in W.P(MD)No.11424 of 2014 filed by the first respondent herein.

2.The writ petitioner's son, Jeyendran joined TASMAC Limited, Dindigul as salesman on 29.11.2003. The writ petitioner and his wife were shown as nominees in the declaration form filed under Employees' Provident Fund and Employees Pension Scheme, 1995. On 27.03.2005, Jeyendran married one Sakthi Anusiya. Unfortunately, Jeyendran passed away on 28.07.2005. Sakthi Anusiya remarried on 07.09.2007 to one Arivalagan. Thereafter, the petitioner filed Succession OP No.1 of 2008 on the file of District Munsif Court, Nilakottai and obtained succession certificate on 23.09.2008. The same was produced before the appellant and the petitioner sought payment of pension. His request was rejected vide order dated 31.03.2014. Challenging the same, W.P(MD)No.11424 of 2014 was filed. The learned single Judge allowed the writ petition in the following terms:

> *"10.The issue of including parents in the definition of 'family' was considered by this Court in W.A(MD)No. 3409 of 2002 dated 05.01.2002 in The Regional Commissioner Vs. Mrs.Chellam @ Chellammal. It has been held as under:*
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> *"10.It is not in dispute that the deceased is a member of the scheme and eligible for sanction of family pension. Even though parents are not included in the definition 'family' of the scheme 1971, as the appellant accepted nomination of the mother of the deceased to receive the fiscal assistance after his death, she is entitled to receive the family pension as the nominee. After realising the mistake for non inclusion of the parents in the definition of 'family' in 1971 scheme, they have included the parents in the definition of 'family' in 1995 scheme. As held by the learned single Judge of Gauhati High Court, this is a piece of welfare legislation and aims to achieve the object of giving the financial protection to the helpless parents of the deceased employee.*
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> *11.Therefore, we are of the considered view that the learned single Judge has rightly allowed the writ petition directing the appellant to pay the family pension*

to the first respondent and her husband as per the existing pension scheme with arrears from 29.07.1987 with interest at the rate of 6% per annum. We see no reasons to interfere with the said order. The order of the learned single Judge is confirmed.”

As rightly held by the Hon'ble Division Bench of this Court EPF and PF is a beneficial legislation.

11.Therefore this Court directs the second respondent to pay the EPF and the pension along with arrears to the petitioner and his wife, being the parents of the deceased Jeyendran.

12.At this juncture the petitioner accepted if the wife makes any claim, the petitioner would pay the 1/3rd of the pension amount. Therefore this Court is directing the petitioner to pay the 1/3rd amount, if the ex-wife of the deceased makes any claim.”

The question that calls for consideration is whether the order of the learned single Judge can be sustained.

3.Paragraph 16 of the Employees' Pension Scheme, 1995 reads as follows:

*“1**6. Benefits to the family on the death of a member.** -*

(1) Pension to the family shall be admissible from the date following the date of death of the member if the

member dies -

(a) while in service, provided that at least one month's contribution has been paid into the Employees' Pension Fund, or

(b) after the date of exit but before attaining the age of 58, from the employment having rendered service entitling him/her to monthly member's pension but before the commencement of pension payment or (c) after commencement of payment of the monthly member's pension. Note : - The cases where a member has rendered less than 10 years eligible service on the date of exit but has retained the membership of the Pension Fund, and dies before attaining the age of 58 years, shall be regulated under sub-paragraph (8) of paragraph 12.

(2) (a) The monthly widow pension shall be : -

(i) in the cases covered by clause (a) of sub-paragraph (1), equal to the monthly member's pension which would have been admissible as if the member had retired on the date of death or Rs. 450/- or the amount indicated in Table ' C ' whichever is more.

(ii) in the cases covered by clause (b) of sub-paragraph (1), equal to the monthly member's pension which would have been admissible as if the member had retired on the date of exit or Rs. 450/- per month or the amount indicated in Table ' C ' whichever is more.

(iii) in the cases covered by clause (c) of sub-paragraph (1), equal to 50 per cent. of the monthly

member's pension payable to the member on the date of his death subject to a minimum of Rs. 450/- per month.

(iv) in all the cases, where the amount of family pension sanctioned under the ceased Family Pension Scheme, 1971 and is paid/payable under this scheme is less than Rs. 450 per month the amount of family pension in such cases shall be enhanced to Rs. 450/- per month.

(v) in all the cases, where the monthly widow pension including relief, if any, is less than one thousand rupees per month, the amount of monthly widow pension in such cases shall be enhanced to one thousand rupees per month.

(b) the monthly widow pension shall be payable upto the date of death of the widow or remarriage whichever is earlier. Note :- In cases where there are 2 or more widows, family pension shall be payable to the eldest surviving widow. On her death it shall be payable to the next surviving widow, if any. The term "eldest" would mean seniority with reference to the date of marriage.

(3) Monthly children pension: -

(a) If there are any surviving children of the deceased member, falling within the definition of family, they shall be entitled to a monthly children pension in addition to the monthly widow/widower pension.

(b) Monthly children pension for each child shall be equal to 25 per cent. of the amount admissible to the

widow of the deceased member as monthly widow pension payable under clause (a) of sub- paragraph (2):

Provided that the minimum monthly children pension including relief, if any, for each child of the deceased member shall not be less than two hundred and fifty rupees per month.

(c) Monthly children pension shall be payable until the child attains the age of 25 years.

(d) The monthly children pension shall be admissible to maximum of two children at a time and will *run from the oldest to the youngest child in that order.*

(e) If a member dies leaving behind a family having son or daughter who is permanently and totally disabled, such son or daughter shall be entitled to payment of monthly children pension or orphan pension, as the case may be, irrespective of age and number of children in the family in addition to the pension provided under clause (d).

(4)(a) If the deceased member is not survived by any widow, but is survived by children falling within the definition of family or if the widow pension is not payable, the children shall be entitled to a monthly orphan pension equal to 75 percent of the amount of the monthly widow pension as payable under clause (a) of subparagraph (2):

Provided that the minimum monthly orphan pension including relief, if any, for each orphan shall not be less than seven hundred and fifty rupees per month.

(aa) The monthly orphan pension shall be payable to each orphan till such orphan attains the age of twenty-five years:

Provided that the monthly orphan pension shall be payable to an orphan beyond the age of twenty-five years, if such orphan is suffering from disorder or disability of mind or who is physically crippled or disabled.

(b) In the event of death or remarriage of the widow/ widower after sanctioning of widow/widower pension the children shall be entitled in lieu of the monthly children pension, to a monthly orphan pension from the date following the date of death/remarriage of the widow/widower. (c) The monthly orphan pension shall be admissible to a maximum of 2 orphans at a time and shall run in order from the oldest to the youngest orphan.

(5) (a) A member who is not married or who does not have any living spouse and/or an eligible child may nominate a person to receive benefits as laid down hereinafter provided that in the event of his/her acquiring a family subsequently, the nomination so made shall become void. In the event of death of the member such a nominee shall be entitled to receive a monthly

pension equal to the monthly widow pension, as admissible under sub-clauses (i) and (ii) of clause (a) of subparagraph (2).

(aa) If a member dies leaving behind no spouse and/or an eligible child falling within the definition of family and no nomination by such deceased member exists, the widow pension shall be paid under sub-clauses (i) and (ii) of clause (a) of subparagraph 2 either to dependant father or dependent mother as the case may be. On grant of pension to such dependant father and in the event of death of the father pensioner, the admissible pension shall be extended to the surviving mother lifelong.

(b) If the deceased member had not rendered pensionable service on the date of exit from the employment which would have made him entitled to a monthly members pension under paragraph 12, but had opted to retain the membership of his Scheme under sub-paragraph (8) of paragraph 12, the nominee or the dependant father or the dependant mother, as the case may be, shall be entitled to a withdrawal benefit as provided in paragraph 14."

Paragraph 16(5)(aa) was subsequently added with effect from 06.03.1999. Earlier there was no provision for paying pension to the parents of the deceased.

4.It is not open to the writ Court to add words that are not set out in the scheme. At the same time, we cannot lose sight of the fact that the EPF scheme is a welfare measure and, therefore, it has to be liberally construed. As per Paragraph 16(5)(aa), if the member dies leaving behind no spouse and or eligible child, widow pension has to be paid to the dependant father or dependant mother. In this case, the member of the scheme, namely, Jeyendran died leaving behind his widow, namely, Sakthi Anusiya. Therefore, it was not open to the writ petitioner to make a claim in the first instance. But the fact remains that till date no claim has been received from the widow. We can therefore safely conclude that the case on hand can be brought within the scope of Paragraph 16(5)(aa).

5.If such expansive approach is not adopted, the resultant position will be that the widow, who has subsequently remarried, would not have received any amount, and at the time the amount would be lying with the appellant organization. In other words, the appellant organization would have unjustly enriched itself. It is for this reason, we hold that where no claim has been received from the widow of the member, in such circumstances, the widow pension can be paid to the dependant father or mother. We make it clear that the appellant organization shall not be liable for any future claims. If any claim is made by the widow in future, from the date on which such claim is made, the pension shall be paid only to the widow and not to the dependant father or mother. Even though we set aside the order passed by the learned single Judge, considering the special facts and circumstances, relief is granted to the writ petitioner in the above terms.

6.This Writ Appeal is allowed accordingly. No costs.

[G.R.S., J.] [R.K.M, J.]
21.01.2026

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

To

The District Manager /
Supervisor,
TASMAC Limited,
Dindigul.

G.R.SWAMINATHAN,J.

AND

R.KALAIMATHI, J.

MGA

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