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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 15-10-2026

Pronounced on : 03-11-2026

CORAM

THE HON'BLE MRS.JUSTICE THIRUMAGAL CHANDRASEKAR

SA(MD) No. 353 of 2014

CNR:{HCMD010843552014}

Case QR

and

MP(MD).No.3 of 2014

Regional Provident Fund
Commissioner Employees Provident Fund
Organisation, Sub-regional Office,
Tirunelveli-627 007.

..Appellant / 2nd defendant

Vs

1. Mailammal,
   W/o.Seeni, D.No.1/76, South St., Punkampatti, Kadayam Via,
   Ambasamudram Taluk. .. 1st respondent / plaintiff

2. Seyed Home Industries Pvt.Ltd.
   Rep.Through Its Branch Manager,
   Manalkattanoor, Alankulam Taluk.

.. 2nd respondent / 1st Defendant

Prayer: Second Appeal filed under Section 100 CPC to set aside the Judgment and Decree dated 30.10.2010 passed in A.S.No.14 of 2009 on the file of the Subordinate Court, Ambasamudram by reversing the

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Judgment and decree dated 17.09.2007 passed in O.S.No.121 of 2006 on the file of the Principal District Munsif Court, Ambasamudram.

For Appellant(s) :M/s I. Robert Chandra Kumar
M/s Standing Counsel
For 1st respondent : No appearance
For 2nd respondent : Mr. S.Karthik

JUDGMENT

This Second Appeal has been filed against the Judgment and Decree dated 30.10.2010 made in A.S.No.14 of 2009 on the file of the Subordinate Court, Ambasamudram by reversing the Judgment and decree dated 17.09.2007 passed in O.S.No.121 of 2006 on the file of the Principal District Munsif Court, Ambasamudram.

2. The Brief Facts of the Case are as follows:

(i). The plaintiff was employed as a beedi-rolling labourer in the first defendant's establishment at Ambasamudram from 01.10.1985 to 31.03.1993 and was allotted Provident Fund Account No. TN / 20885-A/3333. Subsequently, she joined another unit of the same establishment at Lakshmiyur on 01.04.1993 and continued her employment until

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31.03.1996, during which period she was allotted a separate Provident Fund Account No. TN/20885-F/42.

(ii). The plaintiff contended that, owing to her illiteracy and lack of awareness regarding the procedure for transferring provident fund accumulations, the two accounts remained separate. Claiming that the service rendered under both accounts was liable to be taken into consideration for determining her eligibility for pension under the Employees' Pension Scheme, 1995, she issued a legal notice to the second defendant seeking merger of the accounts. As the request was not acceded to, she instituted the suit seeking a declaration and consequential relief.

(iii). The first defendant expressed its willingness to abide by the orders of the Court, whereas the second defendant, the Employees' Provident Fund Organisation, contended that the plaintiff had failed to apply for transfer of the earlier provident fund balance in accordance with Paragraph 57(2) of the Employees' Provident Fund Scheme, 1952. It was further contended that the plaintiff had submitted separate claim forms and received withdrawal benefits under both accounts and, consequently, her membership under the Employees' Pension Scheme, 1995, had

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ceased in terms of Paragraph 6A of the said Scheme.

(iv). The trial Court decreed the suit in favour of the plaintiff. On appeal, the lower appellate Court modified the decree with regard to interest and held that the plaintiff would be eligible for pension subject to her depositing the entire withdrawal amount with interest at 8.5% per annum.

3. Aggrieved over the same, the appellant / 2nd defendant has preferred the present second appeal.

4. The Second Appeal was admitted by this Court on the following substantial questions of law:-

1. Is it not the duty cast upon the first and second respondents herein to intimate the appellant to merge the two EPF accounts stands in the name of the first respondent herein?

2. Is the approach of the lower Appellate Court is correct in violating para 6A of the Employees' Pension Scheme, 1995?

5. Heard Mr. I. Robert Chandra Kumar, learned Standing Counsel

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appearing for the appellant, and Mr. S. Karthick, learned counsel appearing for the second respondent. Despite service of notice, the first respondent/plaintiff has not appeared before this Court, either in person or through counsel. Hence, this Court proceeds to consider the appeal on its merits, after hearing the learned counsel appearing for the appellant and the second respondent and upon perusing the materials available on record.

6. The 1st respondent / plaintiff was employed as a beedi-rolling labourer in the 2nd respondent / 1st defendant's establishment at Ambasamudram from 01.10.1985 to 31.03.1993 and was allotted Provident Fund Account No. TN/20885-A/3333. Subsequently, she joined another unit of the same establishment at Lakshmiyur on 01.04.1993 and worked until 31.03.1996, under a separate Provident Fund Account No. TN/20885-F/42. The 1st Respondent / Plaintiff contended that, owing to her illiteracy and lack of awareness, the two accounts were not merged and sought to have both periods of service considered for pension under the Employees' Pension Scheme, 1995. As her request for merger was not accepted, she instituted the suit seeking appropriate declaratory and consequential reliefs.

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7. The 2nd respondent / 1st defendant expressed its willingness to abide by the Court's decision. The Appellant / 2nd defendant contended that the prescribed procedure for transferring the earlier provident fund balance under Paragraph 57(2) of the Employees' Provident Fund Scheme, 1952, had not been followed and that the 1st respondent / plaintiff had already received withdrawal benefits under both accounts, resulting in cessation of her pension-scheme membership under Paragraph 6A of the Employees' Pension Scheme, 1995.

8. The learned counsel appearing for the appellant / 2nd defendant submitted that the judgment and decree of the lower appellate Court are contrary to the statutory provisions governing the transfer of provident fund accumulations and cessation of membership under the Employees' Pension Scheme, 1995. It was submitted that the 1st respondent / Plaintiff had maintained two separate provident fund accounts and that the prescribed procedure for transferring the balance in the earlier account had not been followed. The appellant / 2nd defendant could not be expected to identify and consolidate the previous account without the requisite particulars being furnished by the employee or the employer. He further contended that the 1st respondent / plaintiff had submitted separate claim forms and received withdrawal benefits under both accounts. Once

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the withdrawal benefit contemplated under Paragraph 14 of the Employees' Pension Scheme, 1995, had been availed, her membership ceased by operation of Paragraph 6A of the Scheme. Therefore, the lower appellate Court was not justified in directing the grant of monthly pension merely upon repayment of the withdrawn amount with interest. The learned counsel accordingly prayed that the judgments and decrees of the Courts below be set aside.

9. The duty of the parties to furnish the necessary particulars for transferring the provident fund accumulations from the earlier account to the subsequent account. The paragraph 57(2) of the Employees' Provident Fund Scheme, 1952, deals with the transfer of provident fund accumulations in accordance with the prescribed procedure. Where an employee changes the unit in which she is employed and a separate provident fund account is allotted, the necessary particulars must be furnished and the prescribed procedure followed to facilitate the transfer of the earlier balance. In the present case, the 1st respondent / plaintiff was employed in two units of the same establishment during successive periods. However, separate provident fund account numbers were maintained, and the appellant / 2nd defendant contended that the prescribed procedure for transferring the earlier account balance had not

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been followed. The 1st respondent / plaintiff's explanation that she was unaware of the procedure owing to her illiteracy may explain the circumstances in which the accounts remained separate, though the explanation of illiteracy may evoke sympathy, *dura lex sed lex*; statutory requirements cannot be dispensed with on that ground alone. The appellant / 2nd defendant, being the authority administering the provident fund, cannot be faulted merely for failing to consolidate the accounts when the requisite particulars and prescribed application have not been furnished. Nevertheless, the failure to transfer the accounts does not, by itself, extinguish any pension entitlement that may otherwise be available under the applicable provisions of the Scheme. The question of transferring provident fund accumulations must be distinguished from the question of eligibility for pension, which is governed by the provisions of the Employees' Pension Scheme, 1995.

10. On considering the effect of Paragraph 6A of the Employees' Pension Scheme, 1995, the said provision stipulates the circumstances in which membership of the Employees' Pension Fund ceases, including the availing of the withdrawal benefit to which a member is entitled under Paragraph 14 of the Scheme. Where an employee has availed the withdrawal benefit contemplated under Paragraph 14 of Employees'

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Pension Scheme, 1995, cessation of membership follows in accordance with Paragraph 6A. It is necessary to distinguish the withdrawal of ordinary provident fund accumulations from the withdrawal benefit specifically granted under Paragraph 14 of the Employees' Pension Scheme, 1995. The application of Paragraph 6A must therefore be based on the nature of the benefit actually received by the 1st respondent / plaintiff, as established by the relevant claim forms and payment records. The appellant / 2nd defendant has specifically contended that the 1st respondent / plaintiff submitted separate claim forms and received withdrawal benefits under both accounts. As the records establishes that she received the withdrawal benefit contemplated under Paragraph 14, the statutory consequence under Paragraph 6A must be given effect to. In such circumstances, the 1st respondent / plaintiff cannot claim restoration of her membership merely on the ground that the two accounts related to successive periods of employment in units belonging to the same establishment.

11. The lower appellate Court directed the 1st respondent / plaintiff to deposit the entire amount withdrawn, together with interest at the rate of 8.5% per annum, and held that she would thereupon become eligible for monthly pension. However, repayment of the amount withdrawn with

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interest and restoration of membership under the Pension Scheme are distinct matters. The former concerns repayment of money, whereas the latter depends upon the statutory provisions governing membership and pension eligibility. A Court cannot assume that repayment of the withdrawal amount automatically reverses the legal consequences of a completed withdrawal. Unless the applicable provisions of the Scheme authorise restoration of membership in the circumstances established by the evidence, the lower appellate Court cannot revive the 1st respondent / plaintiff's pension entitlement merely by imposing a condition of repayment. The direction to deposit the withdrawn amount with interest cannot, by itself, create a statutory right to pension where the requisite conditions for membership and eligibility are no longer satisfied.

12. The 1st respondent / plaintiff's employment in two units of the same establishment is relevant to the determination of her qualifying service. However, the mere existence of separate provident fund accounts does not conclusively determine her entitlement to pension. The periods of employment must be examined in accordance with the applicable provisions governing eligible service and pensionable service under the Employees' Pension Scheme, 1995. Even where both periods of employment would otherwise qualify for consideration, such aggregation

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cannot override a statutory cessation of membership if the conditions prescribed under Paragraph 6A have been fulfilled.

13. On a consideration of the materials placed on record and the submissions advanced on behalf of the appellant / 2nd defendant, this Court is of the view that the lower appellate Court was not justified in directing the grant of monthly pension merely upon repayment of the withdrawal amount with interest, without determining the legal consequence of the withdrawal benefit under Paragraph 6A of the Employees' Pension Scheme, 1995. Where the relevant records establish that the 1st respondent / plaintiff had availed the withdrawal benefit under Paragraph 14 and that her membership had consequently ceased, the lower appellate Court's direction permitting her to obtain pension solely upon repayment cannot be sustained in the absence of an applicable statutory provision authorising restoration of membership.

14. Accordingly, the substantial questions of law are answered in favour of the appellant / 2nd defendant. The judgment and decree dated 30.10.2010 passed by the Subordinate Court, Ambasamudram, in A.S.No.14 of 2009, insofar granting pension merely upon repayment of the amount withdrawn with interest, are legally unsustainable where

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cessation of membership under Paragraph 6A is established by the records.

15. In the result, the Second Appeal is allowed, and the judgment and decree dated 30.10.2010 passed in A.S.No.14 of 2009 on the file of the Subordinate Court, Ambasamudram, modifying the judgment and decree dated 17.09.2007 passed in O.S.No.121 of 2006 on the file of the Principal District Munsif Court, Ambasamudram, are set aside. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

03-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

T. RAJAPRABA

Copy To :

1. The Subordinate Court, Ambasamudram
2. The Principal District Munsif Court, Ambasamudram.
3. Section Officer (VR Section)
   Madurai Bench of Madras High Court

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THIRUMAGAL CHANDRASEKAR, J.

T.RAJAPRABA

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