

W.A(MD)No.1603 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 19.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A(MD)No.1603 of 2025

The Principal Accountant General (A&E),
No.361, Anna Salai,
Teynampet,
Chennai – 600 019.

... Appellant /
1st Respondent

Vs.

1.A.V.Jerald

... 1st Respondent /
Petitioner

2.The District Forest Officer,
Office of the District Forest,
Kanyakumari Division,
Nagercoil – 629 001.

3.The Treasury Officer,
District Treasury,
Tirunelveli District – 627 009.

... Respondents 2 & 3 /
Respondents 2 & 3

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order in W.P(MD)No.2972 of 2025 dated 10.02.2025 on the file of this Court and to allow the Writ Appeal.



WEB COPY



W.A(MD)No.1603 of 2025

For Appellant : Ms.S.Mahalakshmi
Standing Counsel

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
for R.2 & R.3

JUDGMENT

(By G.R.SWAMINATHAN, J.)

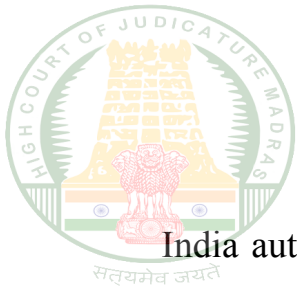
A.Varuvel was working as Forester under the control of the District Forest Officer in Kanyakumari. He became medically unfit in the year 1982. During his lifetime, he was receiving pension. He died in the year 1998. Thereafter, his wife Maria Rose was receiving family pension. She also passed away in the year 2016. The couple had two sons, one of whom (Jerald) is mentally retarded. After the demise of the parents, he is being taken care of by his elder brother A.V.Tharsius.

2.Tharsius wrote to the department seeking payment of family pension for his younger brother who is admittedly suffering from intellectual disability. He sent representation after representation. To no avail. As a last resort, he knocked the doors of the High Court. The writ petition was filed in the last week of January, 2025. It was allowed by His Lordship Mr.Justice Battu Devanand on 10.02.2025. When this appeal was taken up for admission today,

**W.A(MD)No.1603 of 2025**

we were pleasantly surprised to be informed that the order of the learned Single Judge has already been complied with. We wondered as to why this appeal has been filed. The learned Standing Counsel submitted that since the learned Single Judge had made certain strong remarks, the appellant wanted them to be expunged. We gladly conceded the request taking into account the post-order conduct of the appellant. The remarks passed against the appellant stand expunged.

3.At this juncture, we were reminded that one Sujatha is yet to be as lucky. Her father retired in the year 1996. In his pension book, the fact that Sujatha is handicapped had been incorporated. The father passed away in 2020. The mother too passed away on 29.06.2024. Application for sanctioning family pension for Sujatha was submitted immediately thereafter. The office of the appellant sought certain details and documents. Everything was furnished by Dr.T.A.Lalitha, the younger sister of Sujatha, who had been appointed as the legal guardian by the Collector of Chennai under Section 14 of the National Trust Act, 1999. Even though all the documents were furnished, the AG's office vide letter dated 10.01.2025 forwarded the admissibility report for family pension to the Secretary to Government of India, Ministry of Law and Justice (Department of Justice), New Delhi to obtain sanction from the President of

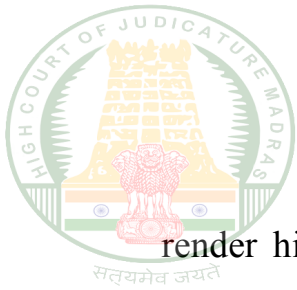


W.A(MD)No.1603 of 2025

India authorizing the family pension. Subsequently, Dr.T.A.Lalitha received a letter from the AG's office enclosing the letter dated 07.02.2025 from the Government of India seeking submission of the very same set of documents. The matter lies there.

4.Why do we make a reference to the case of T.A.Sujatha?. Because she happens to be the daughter of Shri.T.S.Arunachalam, one of the distinguished judges of the Madras High Court, who retired as its Acting Chief Justice. He was a leading lawyer in the criminal bar. He served the institution with great distinction. The last part of his life was spent in spiritual pursuits. It is agonising to note that his physically and mentally challenged daughter has not been sanctioned family pension even though more than a year has passed since her mother's demise. That she remains a dependent person is beyond doubt. We call upon the Registrar General of the Madras High Court to liaison with the authorities concerned and ensure that Ms.T.A.Sujatha, daughter of Justice T.S.Arunachalam gets her family pension at the earliest.

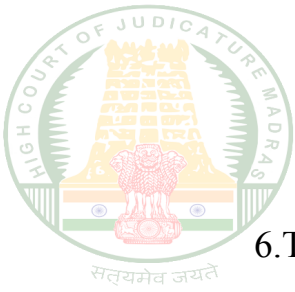
5.The Rule position admits of no doubt. Rule 54(6) of CCS (Pension) Rules states that if the son or daughter of a government servant is suffering from any disorder or disability of mind including mental retardation so as to

**W.A(MD)No.1603 of 2025**

render him or her unable to earn a living even after attaining the age of 25

WEB COPY

years, the family pension shall be payable to such son or daughter for life. The appointing authority shall satisfy that the handicap is of such a nature so as to prevent him or her from earning his or her livelihood and the same shall be evidenced by a certificate obtained from a Medical Board. On the same lines, there are provisions in the Tamil Nadu Pension Rules, 1978 also. Rule 49(6) also states that a son or daughter suffering from disorder or disability of mind which prevents him or her from earning his or her livelihood will be entitled to family pension for life after the demise of the parents. The provision is to the effect that a medical officer not below the rank of a civil surgeon has to give certificate setting out the mental or physical condition of the child. Nowhere is there any requirement to produce income certificate duly noting the income from all sources. In the case of Jerald also, the appellant herein had insisted on furnishing such a certificate. When the statutory rule itself contemplates certificate only from a Doctor/Medical Board stating that the son/daughter of the deceased employee by virtue of his or her mental or physically disability cannot earn a livelihood on his or her own, the authority cannot ask for anything more.



W.A(MD)No.1603 of 2025

6.This issue was authoritatively settled three decades ago by the Hon'ble

WEB COPY

Supreme Court in the decision reported in **1995 Supp.(1) SCC 145 (Bhagwanti Mamtani v. UOI)**. In the said case, the employer passed away in the year 1976. In fact, he had retired in the year 1969, before CCS (Pension) Rules, 1972 were introduced. The original application seeking relief for the intellectually disabled daughter was filed before the Central Administrative Tribunal only in May 1986. Rejecting the argument founded on laches and prospective operation of the Rules, the Hon'ble Supreme Court gave relief based on the report of the Department of Psychiatry, AIIMS. The daughter was held entitled to the family pension in terms of proviso to Rule 54(6) of the CCS (Pension) Rules, 1972 with effect from 01.05.1986. This decision has been consistently followed.

7.Pension has always been characterized as a matter of right and not charity or bounty. When it comes to extending the benefit for the mentally disabled, the authority must exhibit alacrity. Such an approach alone would subserve and effectuate the benevolent object with which the statutory rules have been formulated. They should be seen as one more facet of Article 21 of the Constitution of India. We hold that the son/daughter of a pensioner who is mentally disabled and who falls within the scope of the pension rules should be disbursed with family pension on submission of the medical certificate



W.A(MD)No.1603 of 2025

evidencing his/her incapacity to earn livelihood on their own without insisting on certificate denoting income from all sources. The sanction order must be passed without any delay after the documents mentioned in the statutory rules are submitted.

8.This writ appeal stands disposed of accordingly.

[G.R.S., J.] & [K.R.S., J.]
19.06.2025

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

To

1.The District Forest Officer,
Kanyakumari Division, Nagercoil – 629 001.

2.The Treasury Officer, District Treasury,
Tirunelveli District – 627 009.

Copy to :

1.The Registrar General, the Madras High Court.



WEB COPY



W.A(MD)No.1603 of 2025

G.R.SWAMINATHAN, J.

and

K.RAJASEKAR, J.

MGA/SKM

W.A(MD)No.1603 of 2025

19.06.2025