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MADRAS HIGH COURT ON RENOMINATION UNDER EMPLOYEES' PENSION SCHEME

A. Introduction:

Madras High Court (“**HC**”), on July 5, 2022 in *R. Ramalingam* case,¹ held that if the wife of an employee predeceased him, he can nominate another family member as nominee for receiving pension proceeds.

B. Brief Facts:

1. Ramalingam had nominated his wife for the family pension. Also, he chose to receive the revised pension during his lifetime with 10% return of capital (**ROC**) on his death.
2. Ramalingam’s wife predeceased him and as no other family member was available for renomination, Ramalingam sought return of the ROC amount.
3. Assistant Provident Fund Commissioner (Legal) (“**APFC**”) rejected Ramalingam’s request on the ground that under paragraph 13(1) of the Employees’ Pension Scheme, 1995 (“**Scheme**”), a pensioner must submit fresh nomination for the ROC. He cannot seek for return of the commuted amount.
4. Aggrieved, Ramalingam approached HC by Writ Petition, which was allowed quashing the APFC’s order on the ground that paragraph 13(1) of the Scheme was deleted through a 2008 notification. In absence of any regulation and in the background the deletion, the APFC’s reasoning cannot be sustained. It ordered the department to settle the entire amount credited under ROC and consequently, restore the full pension payable to the Respondent within twelve weeks.
5. Aggrieved, the department preferred Writ Appeal challenging the legality and correctness of the HC’s order.

¹*The Regional Provident Fund Commissioner-I & Anr. vs. R. Ramalingam* [WA No. 1138 of 2022 - 2022 LLR 1052 \(Mad. HC\)](#).

C. Judgment & Reasoning of HC:

HC:

1. When disposing of the Writ Appeal, clarified that an employee covered by the Scheme can nominate a family member to receive the benefit of pension, which would be ROC on his death. Here, Ramalingam's wife predeceased him. Thus, the question was: who can receive the benefit of the ROC on his death?
2. Accepted the contention of the department that Ramalingam could nominate any other family member and accordingly, the benefit payable to the wife could be received by the nominated person. Repayment cannot be made to Ramalingam because it is available only after the death of the employee and it remains a lumpsum amount payable to the nominated family member.
3. However, since Ramalingam agreed to nominate a family member to receive the ROC, directed the department to accept the nomination and regulate the benefit of ROC.

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