



WEB COPY

WA No. 4006 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-01-2026

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THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

WA No. 4006 of 2025

and CMP No. 32483 OF 2025

1. The Secretary
Department of Transport
Tamil Nadu State Transport Corporation,
Chennai.
2. The Managing Director Tamil Nadu State
Transport Corporation Villupuram Division
Villupuram Division,
Villupuram, Villupuram District.

..Appellant(s)

Vs

G Malliga
W/O.Late S.P.Govinda Swamy,

..Respondent(s)

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the Order passed by this Court made in W.P.No. 15967 of 2011 dated 17-06-2025 and allow this Writ Appeal and thus render justice

For Appellants : Mr. T Chandrasekaran



09.06.2011 by stating the following:

“பார்வையில் தங்களது மனுவில், தங்கள் கணவர் 06-07-1992 அன்று இறந்துவிட்டதாகவும், ஆனால் 14-12-1992 முதல் பல்லவன் போக்குவரத்து கழகத்தில் பாதுகாவலராக பணிபுரிந்து வருவதாகவும் குறிப்பிடப்பட்டுள்ளது. இரண்டு தேதிகளிலும் முரண்பாடு உள்ளது. மேலும் சென்னை உயர்நீதி மன்றம் இரண்டு ஓய்வூதியம் வழங்குகுமாறு வழங்கிய தீர்ப்பின் மீது போக்குவரத்து கழகங்கள் மேல் முறையீடு செய்துள்ளது என்பதையும் தெரிவித்துக் கொள்கிறேன்.”

5. Challenging the said order only, the said writ petition was filed.

6. The learned Writ Court, after hearing the learned counsel appearing for both sides had stated that the order dated 07.09.2010 made in W.P.No.4117 of 2006 has been appealed by the Transport Corporation and the appeal is pending, in order to verify the same, the learned Judge had granted time to the appellants herein, who stood as the respondents before the Writ Court.

7. After the time was given, it has been brought to the notice of the Writ Court that, no appeal had been filed by the Transport Corporation against the order passed by the Writ Court in W.P.No.4117 of 2006 allowing the dual family pension payable to the deceased employees.



8. This has been recorded by the learned Judge stating that the order passed by the Writ court dated 07.09.2010 made in W.P.No.4117 of 2006 has become final, as no appeal has been filed, the same has to be followed. Therefore, the learned Judge at paragraph Nos. 7 and 8 of the impugned order having followed the order dated 07.09.2010 made in W.P.No.4117 of 2006 had allowed the said writ petition through the impugned order directing the appellant Department to sanction family pension to the widow of the deceased, who was the writ petitioner.

9. Though as against the said order of the Writ Court, the present intra-court appeal has been directed, after hearing the learned learned Government Pleader and learned Standing Counsel appearing for the appellants, we find that there is absolutely no reason to interfere with the order passed by the Writ Court, for the simple reason that the impugned order dated 09.06.2011 before the Writ Court has stated the only reason that there has been a discrepancy in the dates mentioned relating to the joining and demise of the employee concerned and also the reason that as against the order passed by the Writ Court for sanctioning of dual pension, appeal has been filed by the Transport Corporation. The said reasons cannot now be improved by stating any other reason as has been projected by the learned Standing Counsel, who would submit that, out of the 20 years of service, which the deceased employee rendered for the Transport Corporation, he has got a qualifying service of only 9



years and odd, which is less than the minimum qualifying service for pension and therefore, the widow of the deceased employee is not entitled to get the family pension.

10. This reason has never been projected by the Transport Corporation at any point of time and it has also not been reflected in the order impugned dated 09.06.2011 before the Writ Court and even, it has not been stated in the counter affidavit. Therefore, the case cannot now be improved before the Writ Appellate Court, as it is a settled proposition of law that once the order is passed and the same is tested before the Court of law, it cannot be improved by the subsequent counter affidavit or any other additional documents either before the Court at the first instance or before the Appellate Court as held in the ***Chief Election Commissioner Vs. Mohinder Singh Gill & Anr*** reported in ***1978 AIR 851***.

11. Such an attempt now made by the learned Standing Counsel appearing for the appellant to improve the case beyond the reasons that has arisen in the order dated 09.06.2011 before the Writ Court cannot be accepted by this Court.

12. Moreover, it is a fact that dual pension order passed in W.P.No.4117 of 2006 dated 07.09.2010 has become final, as no appeal since has been filed, therefore, following the same only since the present order, which is impugned



R.SURESH KUMAR J.

**AND
K.GOVINDARAJAN THILAKAVADI J.**

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herein was passed by the Writ Court, we do not find any reason to interfere with the same as absolutely there has been no reason to interfere with the said order.

13. As a result of which, this writ appeal is liable to be dismissed, accordingly, it is dismissed. No costs. Connected miscellaneous petition is closed.

The direction given by the Writ court is to be implemented within a period of two(2) months from the date of receipt of a copy of this order.

**(R.S.K.,J.) (K.G.T.,J.)
29-01-2026**

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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