

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 03-02-2015

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

REVIEW APPLICATION (WRIT) NO.277 OF 2014

Smt.Mohanambal

..Review Applicant

Versus

1. General Manager (Admn.),
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan House, Anna Salai,
Chennai-600 002.

2. Asst.Manager (Service),
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan House, Anna Salai,
Chennai-600 002.

.. Respondents

Prayer: This Review Application has been filed under Order 47 Rule 1 CPC read with Section 114 CPC, praying to review the order, dated 11.8.2014 made in W.P.No.2904 of 2009.

For Applicant : Mr.R.Malaichamy

ORDER

By order, dated 11.08.2014, this Court disposed of the above said writ petition, with the following observation.

“5. Since the petitioner’s husband is not traceable for more than 7 years, as per the provisions of the Indian Evidence Act, extracting supra, it is proved that he has not been heard of, for more than 7 years, by those, who, naturally, would have heard of him, if he had been alive. The entire relief sought by the petitioner, as such, cannot be granted. However, considering the fact that the petitioner’s husband is no more, as observed earlier, the petitioner is entitled to all the service benefits, due and payable to her husband, late Vedagiri, from the date of entry into service till the date of order of termination i.e. 16.02.2001. The amount, if any, due to the petitioner’s husband, will have to be released to the petitioner within a period of three months from the date of receipt of a copy of this order. The Writ Petition is disposed of accordingly. No costs.”

2. Now the petitioner has come forward with the present application seeking to review the order, reiterating the contentions already raised and decided in the writ petition, that since the order of termination, dated 16.2.2001 was issued against the employee who was not heard of for seven years since missing, cannot be sustained and it is liable to be set aside. In fact, this issue has been considered by this Court and held that the order of termination, dated 16.2.2001 issued against the missing employee is sustainable and this Court is not inclined to set aside. However, it is to be

noted that after considering the length of service put in by the employee, this Court has categorically held that the petitioner, being the wife of the employee, is entitled to all the service benefits, due and payable to her husband Late Vedagiri, from the date of entry into service till the date of order of termination, i.e. 16.2.2001. Therefore, the petitioner need not be apprehended that but for not setting aside the order of termination, she could not get the benefits. However, while dismissing the review application, this Court makes it clear that the petitioner is entitled to all the service benefits, due and payable to her husband, Late Vedagiri from the date of entry into service till the date of termination, viz., pensionary benefits, DCRG, compassionate appointment, etc. The respondents are directed to grant all the benefits whichever she is entitled to in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. No costs.

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03.02.2015

S.VAIDYANATHAN, J.

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REV. APPL.(WRIT) NO.277 OF 2014

03.02.2015