

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.21708 of 2015
and M.P.No.1 of 2015

S.Susila

... Petitioner

-Versus-

1.The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
12, Ramakrishna Road,
Salem 636 007.

2.The General Manager,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
12, Ramakrishna Road,
Salem 636 007.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus, directing the respondents to disburse forthwith to the petitioner the legitimate entitlement of family pension and its arrears with effect from 29.07.2007 the date on which the petitioner's husband died on the rationale outlined in the judgement of a Division Bench of this Court in W.A.Nos.685 and 967 of 2011 and 1726 of 2012 dated 30.04.2015 and also other terminal benefits legitimately due to her with interest @ 12% p.a. For the belated payment from the date on which they were due and payable to the date of payment.

For petitioner : Ms.S.Girija

For respondents : Mr.R.K.Gandhi

ORDER

The husband of the petitioner was an Ex-Serviceman. He retired from the Army Service on 03.11.1987. Thereafter, he joined the service of the respondent corporation on 01.09.1990 as a Security Guard. While he was working so, he died on 29.07.2007. At the time when he was working in the respondent corporation, he was getting pension for his service rendered in the Army. After his demise, the petitioner, being his wife, is getting the military family pension from the Army. According to the petitioner, the same cannot be a ground to deny the family pension payable for the service rendered by her husband in the respondent corporation. The grievance of the petitioner is that though she made a

representation on 25.05.2015 to the respondents for family pension, the same has not been considered so far. Hence, she has come forward with this writ petition.

2. I have heard the submissions made on either side and also perused the available records carefully.

3. At the out set, it is useful to refer to a judgement of a Division Bench of this Court dated 30.04.2015 made in W.P.Nos.685 of 2011 etc., batch [The Deputy Secretary to Government of Tamil Nadu and others v. Chandramani] wherein, this court, in paragraphs 4 and 11, has held thus:

"4. The learned single Judge, after elaborately, considering the Tamil Nadu Transport Employees' Pension Fund Rules, particularly, Rules 12, 14(c), 20 and 49(2A) of the Tamil Nadu Pension Rules, 1978 and also considered the judgements reported in (1983) 1 SCC 305 (D.S.Nakara v. Union of India), 1985(3) SCC 345 (Poonamal v. Union of India), 2003 (1) SC C184 (S.K.Mastan Bee v. G.M., South Central Railway), and Division Bench Judgement of this court reported in 2008 (2) LLN 216 (Government of Tamil Nadu v. Tamil Nadu Government Transport Retired Employees Welfare Association), 2008 (1) LLN 314 (P.Arumugam v. Registrar, Tamil University, Thanjavur) and held that the writ petitioners, namely, widows of the retired employees of the Transport Corporation as well as the other eligible persons are entitled to get family pension from the Transport Corporation and set aside the orders passed by the appellants and allowed the writ petitions. Aggrieved by the said order, these Writ Appeals are filed by the appellants.

.. .. .

11. As held by the Hon'ble Division Bench in the judgement reported in 2008 (2) LLN 216 supra, the writ petitioners are governed by the Tamil Nadu State Transport Corporation Employees' Pension Fund Rules and Rule 20 deals with Family Pension to the employees and if they satisfy the requirements as stated therein, they are entitled to claim pension and the receipt of military pension and the receipt of pension under the Tamil Nadu State Transport Employees' Pension Fund Rules are two different pensions paid for the different services rendered by the persons in two different organisations and that cannot be denied by invoking the provisions of the Tamil Nadu Pension Rules, 1978 wherein no similar provision is found in the Tamil Nadu State Transport Corporation Employees' Pension Fund Rules which is governing the writ petitioners and

the appellants in the matter of pension.”

4. In the light of the above judgement of the Division Bench of this court, I am inclined to dispose of this writ petition with a direction to the respondents to grant the family pension payable to the petitioner with arrears along with interest permissible under relevant rules and if the rules are silent in this regard, the respondents shall pay interest for the belated payment in terms of the judgement of this court in GOVERNMENT OF TAMIL NADU, REPRESENTED BY THE SECRETARY TO GOVERNMENT VS. M.DEIVASIGAMANI [2009 (3) MLJ 1] within a period of twelve weeks from the date of receipt of a copy of this order. This writ petition is, accordingly, disposed of. No costs. Consequently, connected MP is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

kmk

To

1.The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
12, Ramakrishna Road,
Salem 636 007.

2.The General Manager,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
12, Ramakrishna Road,
Salem 636 007.

1 cc to Ms.S.Girija , Advocate Sr.No.36959

W.P.No.21708 of 2015

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pmk.14.8.2015

सत्यमेव जयते

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