

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.8.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.27092 of 2015

M..Ghandarubi

... Petitioner

-Vs-

1. The State of Tamil Nadu
Rep. by its Secretary Transport Department
Secretariat Chennai - 600 009
2. Tamil Nadu State Transport
Corpn (Villupuram) Ltd
(Old MGR Transport Corpn Ltd)
Rep. by its Managing Director
Chennai-Bglr Highways Karapettai Po
Kancheepuram - 631503
3. The Commissioner
Employees Provident Fund Regional Office
No. 20 Royapettah High Road
Chennai - 600 014

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st Respondent to grant pension to be paid to the petitioners late husband for the period from 01.01.1988 to 05.02.1995 based on the G.O.Ms. No. 42 Transport dated 27.05.20015 fixing the cut off date of his service in the Transport Department as 31.03.1982 and to pay the same to the petitioner as lifetime arrears of pensioner benefits and consequently to grant family pension to the petitioner from 05.02.1995 the date of the death of the petitioners husband by following the Judgements in W.A. No. 1246 of 2009 dated 18.08.2010 W.P.No. 33975 of 2005 dated 20.09.2011 and in W.P.No. 35674 of 2005 dated 20.09.2011.

For Petitioner : Mr.V.S.Jagadeesan

For R1 : Mr.R.Vijayakumar
Additional Government Pleader

For R2 : Mr.V.Udayakumar

For R3 : Ms.V.J.Latha

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner is the wife of late Munisamy, who was temporarily selected to the post of Driver on 30.12.1967 in the erstwhile State Transport Corporation Department and he joined the said post on 02.01.1968 and he was allotted a Staff No.4396. Sometimes, thereafter, various new Transport Corporations came into being and the husband of the petitioner was absorbed into the services of Thanthai Periyar Transport Corporation (TPTC) as a Driver on 01.05.1975 and was allotted Staff No.DR0073 and he got transferred to the services of M.G.R Transport Corporation Limited as Driver and was allotted Staff No.40106 and got promotion to the post of Sr. Grade Driver. The husband of the petitioner died in harness on 05.02.1995.

3. It is the specific case of the petitioner that though the service rendered by her husband is a pensionable service, after his demise, pension was not paid to her. As per G.O.Ms.No.42 dated 27.05.2005, the cut off date of his service in the Transport Department was fixed as 01.04.1982 with further orders to pay arrears of pension from 01.01.1988. It is also the specific case of the petitioner that since her husband has put in 14 years of service, pension has been sanctioned with effect from 01.01.1988. Therefore, she is entitled for pension between 01.01.1988 to 05.02.1995. Petitioner would submit that similarly placed persons have earlier filed number of petitions and got orders and the same were put to challenge before the Hon'ble Supreme Court of India which had ended in dismissal and therefore, the petitioner is entitled for pensionary benefit. In this regard, she submitted a representation dated 08.06.2015 to the first respondent. Since no orders have been passed, came forward to file this writ petition.

4. Mr.V.S.Jagadeesan, the learned counsel for the petitioner has drawn the attention of this Court to the Division Bench order of this Court dated 20.09.2011 made in W.P.No.33975 of 2005 and 35674 of 2005 and common order dated 27.08.2014 made in W.P.Nos.18886, 18887, 19394 to 19396 of 2014 wherein in similar circumstances, family pension was ordered to be paid to the petitioner and the said orders were also implemented by passing G.O.Ms.(3D)No.20, Transport (RW1) Department, dated 18.07.2013 and G.O.Ms.(3D)No.22, Transport (RW1) Department and G.O.Ms.(3D)No.23, Transport (RW1) Department, dated 25.07.2013 and hence, there cannot be any impediment on the part of the first respondent to pass any appropriate orders.

5. Heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader who accepts notice on behalf of R1, Mr.V.Udayakumar, learned standing counsel, who accepts notice on behalf of R2 and Mrs.V.J.Latha, who accepts notice on behalf of R3.

6. Though the petitioner prayed for a larger relief, this Court, in the light of the facts and circumstances, directs the first respondent to consider and dispose of the petitioner's representation dated 08.06.2015 on merits and in accordance with law after taking note of the above cited orders as well as the Government Orders and pass orders within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

7. This Writ Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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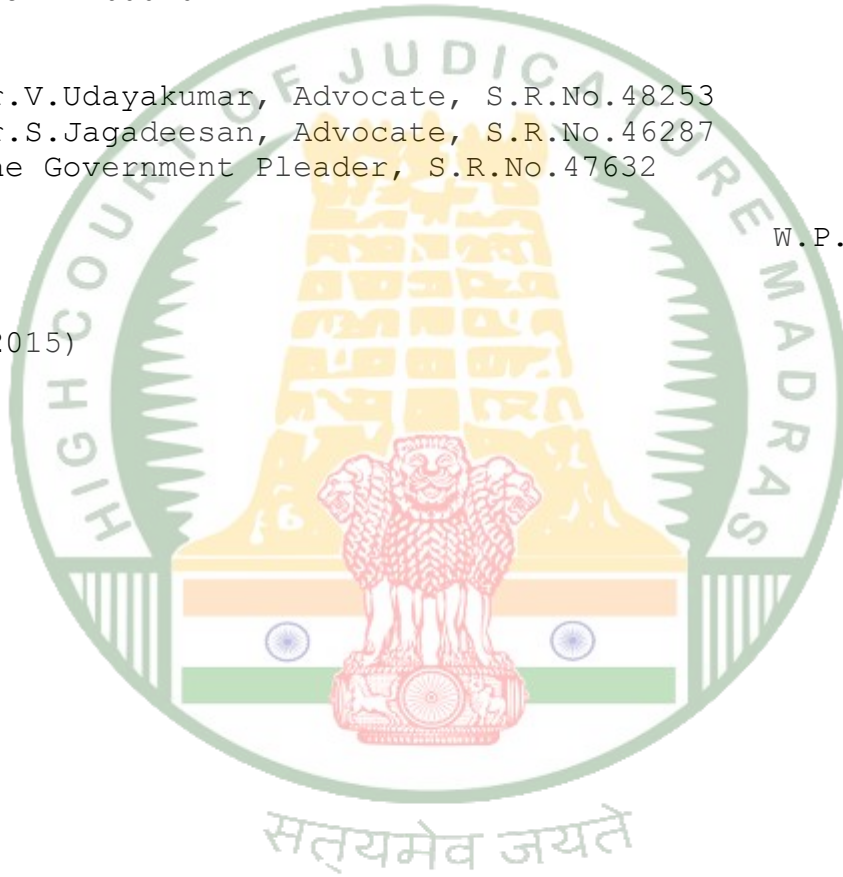
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+1cc to Mr.V.Udayakumar, Advocate, S.R.No.48253
+1cc to Mr.S.Jagadeesan, Advocate, S.R.No.46287
+1cc to the Government Pleader, S.R.No.47632

W.P.No.27092 of 2015

NM(CO)
CA(22/09/2015)



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