

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 13.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.32514/2015

Mrs.K.Parimaladevi

... Petitioner

Versus

1. The State of Tamil Nadu rep.by its
Secretary to Government,
Transport Department,
Secretariat, Chennai - 9.
2. The Tamil Nadu Transport Corporation (Salem) Ltd.,
(Old Name-Annai Sathya Transport Corporation Ltd.,)
Rep.by its Managing Director,
Salem Division-II
Dharmapuri-635 001.
3. The Commissioner,
Employees Provident Fund,
Regional Office,
No.20, Royapettah High Road,
Chennai - 600 014.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus direct the 1st respondent to grant Family Pension and for payment of arrears of Family Pension to the petitioner from 28.01.2011, the day following the date of the death of the petitioner's husband by following the judgments in W.A.No.1246 of 2009 dated 18.08.2010 and in 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.S.Gunasekaran,
Government Advocate

For R2 : Mr.R.K.Gandhi

For R3 : Mr.T.R.Sundaram

ORDER

By consent, the writ petition is taken up for final disposal.

2.The petitioner would state that her husband, namely, M.Kannan, had served in the then State Transport Department as Driving Instructor initially on temporary basis and thereafter, his services were regularised. Subsequently, now the Transport Corporations came to be formed and the services of the petitioner's husband were absorbed in the 2nd respondent/Corporation as Driving Instructor and was allotted Staff No.FD0012 and after putting in service, he attained the age of superannuation on 30.09.1994 and was allowed to retire and he died on 28.01.2011. The petitioner would claim that her husband was entitled to pension as he had put in more than 10 years of service in the Transport Department and it was also paid to him till 28.01.2011, the date of his demise and after his demise, she is entitled to receive Family Pension with effect from the date on which her husband died. The petitioner would state that at present, she is receiving a sum of Rs.411/- as Family Pension under the EPF Scheme, 1995. It is also stated by her that initially the Government has issued orders stating that employees of the erstwhile Transport Department who were permanently absorbed in Transport Corporations, are not entitled to the benefit of Family Pension and it was put to challenge in WP.No.21204/1992 and it was allowed by this Court. Thereafter, the Government of Tamil Nadu/1st respondent herein, has passed G.O.Ms.No.189, Transport [RW1] Department dated 13.08.2004 extending the benefit of Family Pension to the spouses of all pensioners of erstwhile State Transport Departments who are similarly placed, subject to the conditions stipulated in the said Government Order.

3.It is the claim of the petitioner is that one Tmt.A.Loganayaki, spouse of an ex-employee, challenged the legality of Paragraph 7[a] of G.O.Ms.No.110, Transport Department dated 06.06.2002 in WP.No.35643/20007 and it was dismissed on 12.01.2009 and the writ appeal in WA.No.1246/2009 preferred against the said order was allowed on 18.08.2010 and it was put to challenge by filing SLP [Civil]....2011 CC.No.8381/2011 before the Hon'ble Supreme Court of India and the same was also dismissed on 13.05.2011 and thereafter, the 1st respondent has issued G.O [3D] No.38 dated 07.09.2011, implementing the said order and following the said judgment, this Court has also passed a common order dated 20.08.2015 in

WP.Nos.25880, 25881/2015. In this regard, the petitioner has submitted a representation dated 02.09.2015 to the 1st respondent and since no orders have been passed, she came forward to file this writ petition.

4.Learned counsel for the petitioner would submit that subsequently, very many writ petitions were filed seeking for similar relief and orders have been passed and the 1st respondent has also implemented the same in G.O. [3D] Nos.20, 22, 23 dated 18.07.2013 and 25.07.2013 respectively and as such, the petitioner is also entitled to similar benefit.

5.Heard the submissions of Mr.S.Gunasekaran, learned Government Advocate who accepts notice on behalf of the 1st respondent ; Mr.R.K.Gandhi, learned counsel who accepts notice on behalf of the 2nd respondent and Mr.T.R.Sundaram, learned counsel who accepts notice on behalf of the 3rd respondent.

6.Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances, directs the 1st respondent to consider and dispose of the petitioner's representation dated 02.09.2015 on merits and in accordance with law, after taking note of the above cited Government Orders and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

7.The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Secretary to Government,
State of Tamil Nadu,
Transport Department,
Secretariat, Chennai - 9.
2. The Managing Director,
The Tamil Nadu Transport Corporation (Salem) Ltd.,
(Old Name-Annai Sathya Transport Corporation Ltd.,)
Salem Division-II, Dharmapuri-635 001.

3. The Commissioner,
Employees Provident Fund,
Regional Office,
No.20, Royapettah High Road,
Chennai - 600 014.

+1cc to M/s.R.K.Gandhi, Advocate, S.R.No.56214
+1cc to M/s.V.S.Jagadeesan, Advocate, S.R.No.56101
+1cc to the Government Pleader, S.R.No.56856

W.P.No.32514 of 2015

MP (CO)
CA(02/11/2015)



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