

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 13.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.32516/2015

Mrs.K.Rukmani

... Petitioner

Versus

1. The State of Tamil Nadu rep.by its
Secretary to Government,
Transport Department,
Secretariat, Chennai - 9.
2. State Express Transport Corporation Ltd.,
(Old Name Thiruvalluvar Transport Corporation Ltd)
Rep.by its Managing Director,
Pallavan Salai,
Chennai - 600 002.
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 19.10.1991, the date of the death of the petitioner's husband by following the judgements in W.A.No.1246 of 2009 dated 18.08.2010 and in W.P.No.33975 of 2005 dated 20.09.2011.

For Petitioner : Mr.V.S.Jagadeesan

For R1 : Mr.S.Gunasekaran,
Government Advocate

For R2 : Mr.V.Udayakumar

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, R.Palani, was appointed as a Conductor on 01.04.1969 in the services of the erstwhile State Transport Department and was allotted Staff No.5919 and was absorbed into the monthly cadre from 01.04.1970 onwards. The petitioner would further state that her husband was transferred on deputation to Cheran Transport Corporation, vide order dated 30.09.1974 and since he was not interested in joining the services of the said Corporation, he was called back to the Tamil Nadu State Transport Corporation and was posted at Transport House Depot [Express Service], Madras-2 and on formation of various Transport Corporations, the services of the petitioner's husband were absorbed in the Pallavan Transport Corporation as a Conductor and thereafter, he was transferred to Thanthai Periyar Corporation Limited, Villupuram, vide order dated 09.07.1976 and again, transferred to the State Express Transport Corporation as a Conductor and for the purpose of calculating the service Gratuity, DCRG, the 2nd respondent has fixed the pay on absorption of the petitioner's husband on 14.09.1975. The husband of the petitioner died in harness on 19.10.1991. The grievance expressed by the petitioner is that her husband was entitled to pension for the services he had put in, in the Transport Corporation ; but the same has not been paid. By the time, G.O.Ms.No.42, Transport Department dated 27.05.2005, came into force, her husband was no more and consequently, arrears of pension have to be sanctioned and paid to her. 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.V.Udayakumar, 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

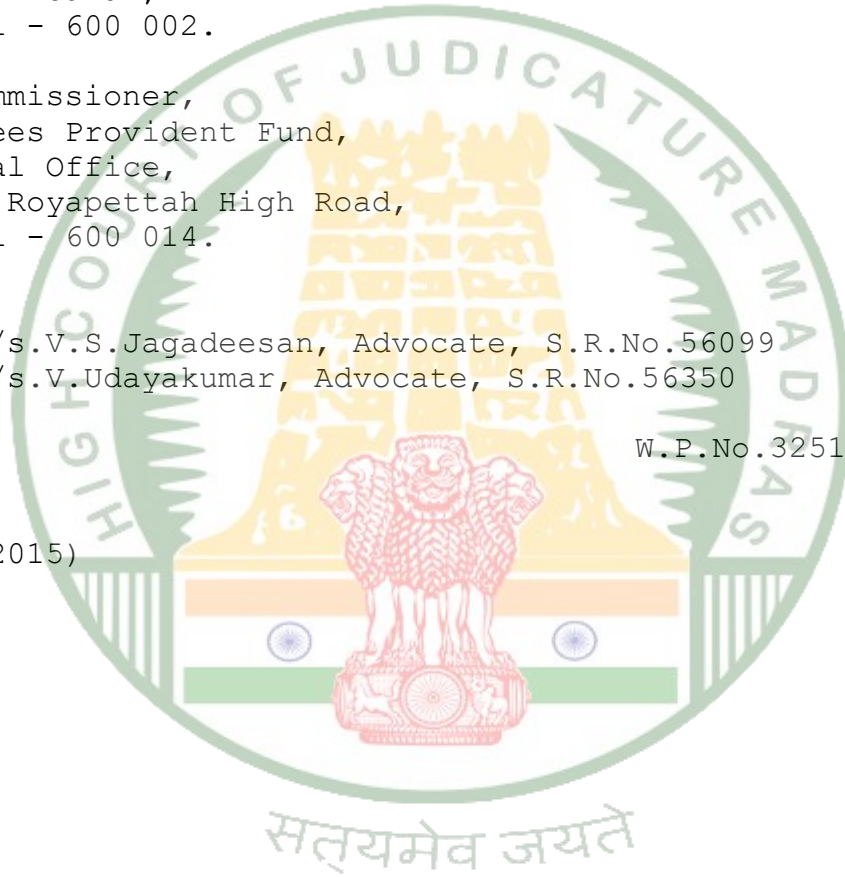
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+1cc to M/s.V.S.Jagadeesan, Advocate, S.R.No.56099

+1cc to M/s.V.Udayakumar, Advocate, S.R.No.56350

W.P.No.32516 of 2015

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



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