

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.34175 of 2015

L.Jothi

...Petitioner

-Vs-

1. The State of Tamil Nadu,
Rep. By its Secretary,
Transport Department,
Secretariat,
Chennai - 600 009.

2. State Express Transport Corporation Ltd.,
(Old 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

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st respondent to sanction pension and pay it as the life time arrears of pension to the petitioner with effect from 01.01.1988 to 21.01.2014 the date of death of the petitioner's husband for the service the petitioner's late husband has put in under the 1st respondent from 11.05.1964 to 01.04.1982 as per the G.O.Ms.No.42, Transport (RW) Department dated 27.05.2005 and as per the provisions of the Tamil Nadu Pension Rules construing that the petitioner has completed the qualifying years of service of 10 years as on 01.04.1982 and consequently to grant family pension to the petitioner by following the judgments in

W.A.No.1246 of 2009 dated 18.08.2010 in W.P.No.35674 of 2005 dated 20.09.2011 and W.P.No.25880 of 2015 dated 20.08.2015.

For Petitioner : Mr.V.S.Jagadeesan

For Respondents : Mr.R.Vijayakumar
Additional Government Pleader
for R1

Mr.V.Udaya Kumar for R2

Mr.T.R.Sundaram for R3

O R D E R

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

2. It is stated by the petitioner that her husband was appointed as a Conductor in the erstwhile State Transport Department on 11.06.1964. In the year 1972, various new Transport Corporations came to be formed. The petitioner's husband was absorbed in the service of State Express Transport Corporation Ltd., (previously known as Thiruvallur Transport Corporation Ltd.,) on 01.05.1975 and he voluntarily retired from service on 30.06.1988.

3. In terms of G.O.Ms.No.110, Transport Department, dated 06.06.2002, family pension was sanctioned to the families of erstwhile Tamil Nadu State Transport Department pensioners and vide G.O.Ms.No.189 Transport Department, dated 13.08.2004, the government has extended the benefit of family pension granted in G.O.Ms.No.110, Transport Department, dated 06.06.2002. In terms of G.O.Ms.No.42 of the said Department dated 27.05.2005, the pensionary benefits were extended to the erstwhile Tamil Nadu State Transport Department Employees, who have put in less than 10 years of Government service in Tamil Nadu State Transport Department by fixing the cut off date for claiming pension as 01.04.1982. It is the claim of the petitioner that her husband is eligible to receive the pension in terms of G.O.Ms.No.42, Transport Department dated 27.05.2005 and it is further stated by the petitioner that her husband died on 21.01.2014 and G.O.Ms.No.42 was issued on 27.05.2005 and consequently, he could not claim the pension during his lifetime.

4. In the similar facts and circumstances, the cut off date was put to challenge in W.P.No.35643 of 2007 and it was dismissed and the W.A.No.1246 of 2009 filed by the appellant/writ petitioner therein was allowed on 18.08.2010 and it was put to challenge by the Government in S.L.P.(Civil) C.C.No.8381 of 2011 and the same was also dismissed on 13.05.2011 and it was also given effect to by the first respondent in G.O.(3D)No.38, Transport Department dated 07.09.2011. Similarly two other wives, like the petitioner, have filed writ petitions and got favourable orders and the said orders were also implemented by the 1st respondent vide G.O.(3D) Nos.20 and 22, Transport (RW1) Department, dated 18.07.2013 and 25.07.2013 respectively and hence, there cannot be any impediment on the part of the respondent to pass appropriate orders and hence, came forward to file this writ petition.

5. Heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader, 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 third respondent.

6. In the light of the facts and circumstances, this Court directs the 1st respondent to consider and dispose of the petitioner's representation dated 10.04.2014 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.

The Writ Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar

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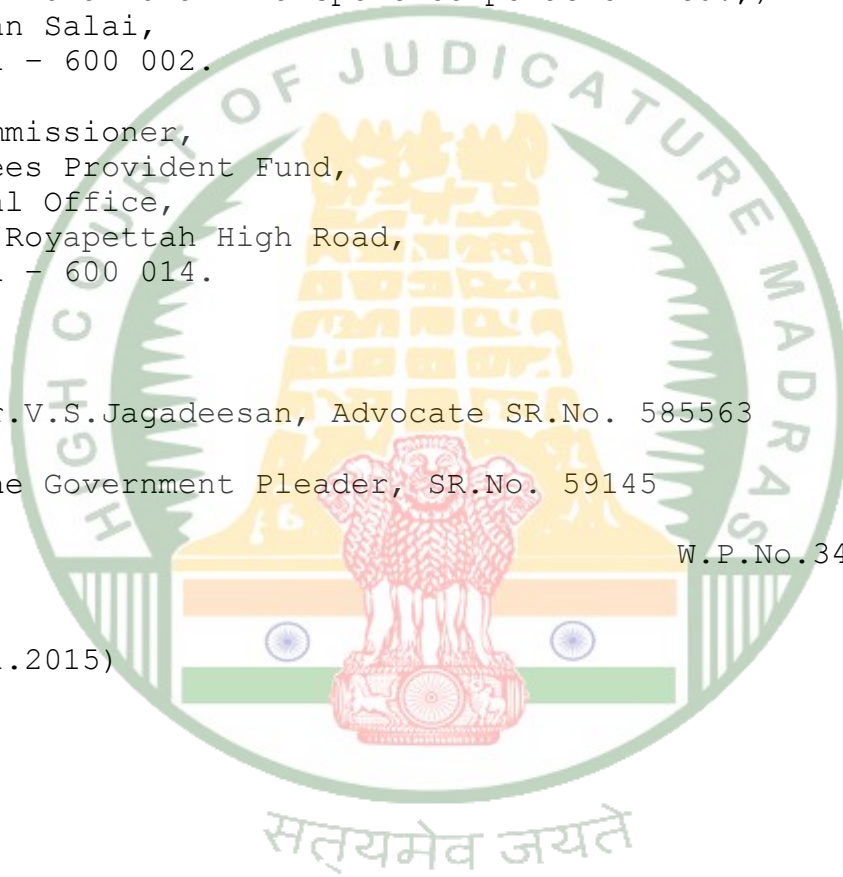
1. The Secretary,
State of Tamil Nadu,
Transport Department,
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Chennai - 600 009.
2. The Managing Director,
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(Old Thiruvalluvar Transport Corporation Ltd.,)
Pallavan Salai,
Chennai - 600 002.
3. The Commissioner,
Employees Provident Fund,
Regional Office,
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1 CC to Mr.V.S.Jagadeesan, Advocate SR.No. 585563

1 CC to the Government Pleader, SR.No. 59145

W.P.No.34175 of 2015

VSN (CO)
PSI (24.11.2015)



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