

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.35162 of 2015

Mrs.S.Kamrunissa

.. Petitioner

Vs.

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

2.The Tamil Nadu Transport Corporation (Salem) Ltd.,
(Old name- Annai Sathya Transport Corpn. 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 praying for issuance of a Writ of Mandamus directing the first respondent to grant pension to be paid to the petitioner's late husband for the period from 01.01.1988 to 20.09.1994 based on G.O.Ms.No.42, Transport dated 27.05.2005, 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 pensionary benefits and consequently to grant family pension to the petitioner from 20.09.1994, 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 Respondents : Mr.V.Subbiah,
Special Government Pleader for R1

Mr.R.K.Gandhi for R2
Mrs.S.Jayakumari for R3

O R D E R

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

2. The petitioner is the widow of late G.Sahabudeen, who was appointed in the erstwhile State Transport Department as a Driver on 19.12.1971 and was regularized in the said service and subsequently, various new State Transport Corporations came into being and her husband was absorbed in the services of the second respondent Transport Corporation on 01.05.1975 as a Driver and was allotted Staff No.5983. The petitioner would further state that her husband opted for Voluntary Retirement Scheme introduced by the second respondent and he was relieved under VRS on 01.03.1993 and subsequently, he died on 20.09.1994. The petitioner would further claim that her husband was not paid with pension till his demise and as per G.O.Ms.No.42, Transport Department dated 27.05.2005, cut off date of service in the Transport Department was fixed as 01.04.1982 and ordered to pay arrears of pension from 01.01.1988 and hence, the pension has to be paid to the husband of the petitioner from 01.01.1988 to 20.09.1994 and consequently, the petitioner became entitled to receive family pension with effect from the date of death of her husband viz., 20.09.1994. It is the case of the petitioner that as per earlier Government Orders, employees of the erstwhile Tamil Nadu State Transport Department, who were permanently absorbed in Transport Corporations are not entitled to the benefit of family pension and in pursuant to the orders passed by this Court, the State Transport Department has passed an order in G.O.Ms.No.189, Transport (RW1) Department dated 13.08.2004 by extending the family pension to the spouses of all pensioners of erstwhile Tamilnadu State Transport Corporation and since the petitioner is similarly placed, she is entitled to the said benefits and in this regard, she has submitted a representation dated 02.09.2015 to the first respondent and since she has not been favoured with any response, came forward to file this writ petition.

4. The learned counsel appearing for the petitioner has drawn the attention of this Court to the common order dated 27.08.2014 made in W.P.Nos.18886, 18887, 19394 to 19396 of 2014, the order dated 18.02.2015 made in W.P.No.33451 of 2014, the order dated 20.04.2015 made in W.P.No.11372 of 2015 and the common order dated 20.08.2015 made in W.P.Nos.25880 and 25881 of 2015 and would submit that in similar facts and circumstances, this Court has directed the respondents namely the Secretary to Government, Transport Department, Tamil Nadu State Transport Corporation as well as the Commissioner, Employees Provident Fund to take note of the above cited orders and pass appropriate orders and hence, prays for

similar relief.

5. Heard the submissions of Mr.V.Subbiah, learned Special Government Pleader, who accepts notice for the first respondent, Mr.R.K.Gandhi, learned counsel who accepts notice for the second respondent and Mrs.S.Jayakumari, learned counsel who accepts notice for the third respondent.

6. A perusal of the above cited orders of this Court would disclose that in terms of G.O.Ms.No.189, Transport (RW1) Department dated 13.08.2004 as well as G.O.Ms.No.42, Transport (RW) Department dated 27.05.2005, erstwhile employees of Tamil Nadu State Transport Department who have put in less than 10 years of service on the date of their permanent absorption in State Transport undertakings are entitled to family pension and this Court, in the above cited orders, has taken note of the same and passed positive orders granting the relief sought for. It is pertinent to point out at this juncture that in the above cited orders of this Court, the first respondent was arrayed as a party and so also the respondents 2 and 3 and therefore, they are equally bound to abide by the said orders.

7. In the light of the above facts and circumstances, this Court directs the first respondent to take into consideration G.O.(Ms).No.189, Transport (RW1) Department dated 13.08.2004, G.O.Ms.No.42, Transport (RW) Department dated 27.05.2005 as well as the above cited orders of this Court and pass orders on merits and in accordance with law on the petitioner's representation dated 02.09.2015 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.

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

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ASSISTANT REGISTRAR (CS-II)

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SUB-ASSISTANT REGISTRAR

jvm

To

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

2.The Managing Director,
The Tamil Nadu Transport Corporation (Salem) Ltd.,
(Old name- Annai Sathya Transport Corpn. Ltd.)
Salem Division II, Dharmapuri-635 001.

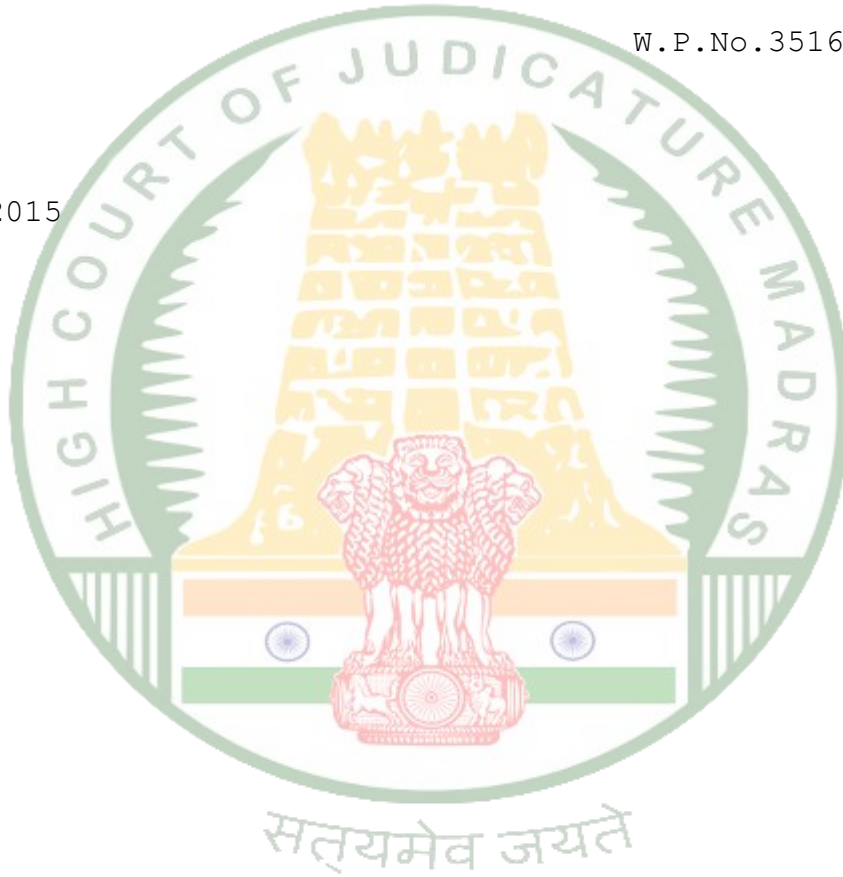
3.The Commissioner,
Employees Provident Fund,
Regional Office,
No.20, Royapettah High Road,
Chennai-600 014.

+1 CC to MR.V.S.Jagadeesan Advocate. SR.NO. 59601

+ 1 cc to The Govt.Pleader, Sr 59861.(5/1/16)

W.P.No.35162 of 2015

CO-NM
JD 19/11/2015



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