

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.5114 of 2014

and

M.P.No.1 of 2015

Tmt.N.Rani

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Transport Department,
Fort St.George, Chennai-600 009.

2. Tamil Nadu State Transport Corporation,
(Villupuram) Ltd.,
Rep. by its Managing Director,
Rangapuram, Vellore-632 009.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records from the respondent pertaining to the order in Letter No.18137/SANI.12/TNSTC(V) Ltd/Vellore Dist/2006, dated 20.06.2011 of the second respondent, quash the same and consequently direct the respondents forthwith to pay monthly pension, commutation amount and family pension to the petitioner as per the Tamil Nadu State Transport Corporation Employer's Pension Rules, without reference to the receipt of defence pension/family pension with arrears.

For petitioner : Mr.A.Lakshmi Narasimhan

For respondents : Mr.K.Dhananjayan, Spl.G.P. for R-1
Mr.P.Paramasivadosh for R-2

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records from the respondent pertaining to the order in Letter No.18137/SANI.12/TNSTC(V) Ltd/Vellore Dist/2006, dated 20.06.2011 of the second respondent, quash the same and consequently direct the respondents forthwith to pay monthly pension, commutation amount and family pension to the petitioner as per the Tamil Nadu State Transport Corporation Employer's Pension Rules, without reference to the receipt of defence pension/family pension with arrears.

2. It is the case of the petitioner that the petitioner's

husband S.Natarajan (late) was an Ex-service-man and working as Driver. He served for more than 15 years in Indian Army and was receiving pension from the Defence Department. In the meantime, he was selected for the post of Driver in the Tamil Nadu State Transport Corporation, where he had served as Driver for more than 22 years. Due to lack of his eye-sight, he had been declared as unfit to work as Driver and advised to retire from service. He was receiving pension from the Defence Department as well as from the State Transport Corporation. While so, her husband died on 29.08.1998. After his death, the petitioner approached the respondent to sanction the family pension. To her shock, the second respondent served the impugned letter stating that she is not eligible to receive the family pension of her husband as she had already been receiving pension from the Defence Department. Hence, she made several representations displaying her plight of sickness, coupled with the fact that the pension being received from the Defence Department is not sufficient for her, as major part of her pension had been spent on medical purposes. Though she is a senior citizen, there is nobody to take care of her and she is maintaining her daily needs only out of her pension. In this situation, the second respondent has passed the impugned letter dislodging her family pension without taking into consideration her pitiable, pathetic and miserable situation, though the fact remains that she is eligible for getting both pension. Hence, the petitioner has filed the above Writ Petition for the relief stated supra.

3. Though the respondents have not filed counter affidavit, learned Special Government Pleader appearing for the first respondent and the learned counsel for the second respondent-TNSTC submitted that the petitioner is ineligible to receive the family pension and hence, they prayed for dismissal of the Writ Petition.

4. Heard both sides and perused the materials available on record.

5. The issue involved in this Writ Petition is no more res-integra, as the same is covered by a decision of this Court reported in 2010 (2) CWC 555 (Tamil Nadu Arasu Pokkuvrathu Madurai Thozhilalar Sangam Vs. Govt. of Tamil Nadu), wherein, this Court granted the relief of receiving both family pension, but only one Dearness Allowance from either the State or Central Pension, by allowing the Writ Petition as prayed for therein, by following various judgments of the Supreme Court and a Division Bench of this Court. The said decision cited supra, had also been followed by this Court in W.P.No.7299 of 2013, dated 10.01.2014.

6. Hence, following the dictum laid down in the above said

judgments of this Court, I am of the view that receiving pension from the Military/Army/Defence Department, is not a bar for the petitioner to receive the family pension from the second respondent-Transport Corporation. However, as observed in the said judgments of this Court, the petitioner is eligible to get Dearness Allowance only for one pension, either Military/Army Family Pension or the Family Pension of the second respondent-Transport Corporation.

7. Accordingly, the present Writ Petition is allowed. The impugned letter is set aside. The respondents are directed to sanction and pay the Family Pension and commutation amount to the petitioner and release the amounts payable to her, with arrears, within a period of six weeks from the date of receipt of a copy of this order and the respondents shall continue to pay the monthly Family Pension so long as the petitioner is eligible to get the Family Pension. No costs. The Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

Copy to

1. Secretary,
Transport Department,
Fort St.George, Chennai-600 009.
2. The Managing Director,
The Tamil Nadu State Transport Corporation,
(Villupuram) Ltd.,
Rangapuram, Vellore-632 009.

+1 cc to Mr.A.Parasivadoss, advocate, sr.68277

+1 cc to Mr.A.Lakshminarasimhan, advocate, sr.68050.

ks(co)
krd 22/11

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