

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 14.09.2016**

**CORAM**

**THE HONOURABLE MR.JUSTICE R.SUBBIAH**

**W.P.No.32025 of 2016**

**And**

**W.M.P.No.27776 of 2016**

1.Parvathy (Wife)  
2.Nithya Kalyani (Daughter)  
3.Ponnulakshmi (Daughter) ... Petitioners

**Vs.**

1 The Management  
Metropolitan Transport Corporation Ltd.,  
Rep. by its Managing Director,  
Pallavan Salai,  
Chennai – 2.

2 The Tamilnadu State Transport Corporations,  
Employees pension Fund Trust, Rep. by its  
Administrator, Thiruvalluvar Illam,  
Pallavan Salai, Chennai – 2. ... Respondents

**Prayer:**

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to settle the petitioners the backwages for the remaining period from April 2005 to 31.12.2008 the date of superannuation of the first petitioner's husband and settle them the terminal benefits such as gratuity, Provident fund, earned leave salary standing to the credit of the 1<sup>st</sup> petitioner's husband's leave account till his dismissal, the amount payable under

the Social Security Scheme, the IRT contributions, the pension payable under the post-retirement scheme, including the monthly pension payable to the 1<sup>st</sup> petitioner's husband from 01.01.2009 to 03.03.2009 and to pay the 1<sup>st</sup> petitioner the family pension from 04.03.2009, with arrears and all other consequential benefits, as revised from time to time, within a specified time as may be fixed by this Hon'ble Court.

For Petitioners : Mr.R.Krishnaswamy  
For Respondents : Mr.P.Kannan Kumar

### **ORDER**

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

2.The present writ petition has been filed seeking a Mandamus directing the respondents to settle the petitioners, the backwages for the remaining period from April 2005 to 31.12.2008 the date of superannuation of the first petitioner's husband and settle them the terminal benefits such as gratuity, Provident fund, earned leave salary standing to the credit of the first petitioner's husband's leave account till his dismissal, the amount payable under the Social Security Scheme, the IRT contributions, the pension payable under the post-retirement scheme, including the monthly pension payable to the first petitioner's husband from 01.01.2009 to 03.03.2009 and to pay the first petitioner the family pension from 04.03.2009, with arrears and all other consequential benefits, as revised from time to time, within a

specified time as may be fixed by this Court.

3.In the petition it is stated that the first petitioner is the wife of one S.Venugopal who was employed as a Driver in the first respondent Corporation from 20.02.1980 and was dismissed from service by an order dated 27.02.1984 and since I.D.No.62/82 was pending wherein the first petitioner's husband was also one of the workmen concerned in the said dispute, the first respondent filed Approval Petition No.83/84 and sought for approval for the dismissal of the first petitioner's husband. Since the said approval petition was allowed on 22.02.1985, her husband filed I.D.82/86 before the II Additional Labour Court, Chennai and the II Additional Labour Court, Chennai passed an award dated 28.02.1989, setting aside the dismissal order and directing the first respondent to reinstate him with continuity of service, backwages and all other attendant benefits.

4.It is further stated that the first respondent filed W.P.No.11964/90 against the said award and however, they reinstated him with effect from 16.05.1989, but they denied him work and later dismissed him from service by an order dated 29.10.1994 and in the meantime, W.P.No.11964/90 came to be dismissed.

5.It is further stated that though the first petitioner's husband was dismissed from service for the second time, the dispute in I.D.No.62/82 was still pending and the first respondent also did not file approval petition seeking approval for the dismissal order dated 29.10.1994. The first petitioner's husband was not paid the difference in salary as per the award dated 28.02.1989 and since he was dismissed from service without seeking approval, he filed Computation Petition No.434 of 2005 claiming difference in wages for the period from 27.02.1984 to 16.05.1989 and other benefits from 29.10.1994 to March, 2005 and during the pendency of the C.P., the first petitioner's husband died on 03.03.2009 and he attained the age of superannuation on 31.12.2008 even before his death.

6.It is further stated that the II Additional Labour Court, Chennai, after hearing the arguments, passed an order dated 07.04.2015, computing the amount payable to the petitioners as Rs.9,26,537.40 and since the petitioners are the legal heirs of the deceased employee, the II Additional Labour Court, Chennai held that the petitioners are entitled to get the amount computed in equal share and since the petitioners 2 and 3 were minors, the share amounts payable to them should be deposited to the credit of the C.P. Account and that further orders would be passed after the amounts were

deposited. The first respondent, challenging the said order filed W.P.No.1046 of 2016 and it is still pending and no interim order has been granted in the said writ petition.

7.It is further stated that the petitioners have also filed Execution Petition praying to execute the order granted in C.P.No.434 of 2005 and also sent legal notice dated 01.08.2015 to the first respondent, requesting to comply with the said order and also to pay the backwages and other attendant benefits from April, 2005 to the date of superannuation of the first petitioner's husband and also requested to settle all the terminal benefits, including arrears of pension payable to her husband from 01.01.2009 to 02.03.2009 and to pay family pension to her from 03.03.2009 and it was also followed by a representation dated 10.06.2016. But, the same was not considered so far and the first respondent has also not complied with the order dated 07.04.2015 passed in C.P.No.434 of 2005 by the II Additional Labour Court, Chennai. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

8.I have heard the learned counsel appearing for the petitioner and the learned counsel who takes notice for the respondents.

9. Though, very many contentions have been raised in this writ petition, the relief sought for in this writ petition is a Mandamus directing the respondents to settle the petitioners, the backwages for the remaining period from April 2005 to 31.12.2008 the date of superannuation of the first petitioner's husband and settle them the terminal benefits such as gratuity, Provident fund, earned leave salary standing to the credit of the first petitioner's husband's leave account till his dismissal, the amount payable under the Social Security Scheme, the IRT contributions, the pension payable under the post-retirement scheme, including the monthly pension payable to the first petitioner's husband from 01.01.2009 to 03.03.2009 and to pay the first petitioner the family pension from 04.03.2009, with arrears and all other consequential benefits, as revised from time to time.

10. The II Additional Labour Court, Chennai, after hearing the arguments, passed an order dated 07.04.2015, computing the amount payable to the petitioners as Rs.9,26,537.40, since the petitioners are the legal heirs of the deceased employee and the W.P.No.1046 of 2016 filed by the first respondent challenging the said order is still pending and no interim order has been granted in the said writ petition.

11.Hence, this Court directs the petitioners to give a fresh representation to the respondents, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order and the respondents on receipt of the same, are directed to consider the said representation, on merits and in accordance with law and pass appropriate orders, within a period of four weeks thereafter.

12.With the above direction, the present writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

14.09.2016

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Index: Yes/ No  
Internet: Yes/ No  
To

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**R.SUBBIAH,J.**

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