

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.4965 to 4967 of 2016

Mrs.B.Chan Begum .. Petitioner in W.P.No.4965 of 2016
Mrs.S.Merunnisa .. Petitioner in W.P.No.4966 of 2016
Mrs.N.Dhanam .. Petitioner in W.P.No.4967 of 2016

-vs-

1. The State of Tamil Nadu
rep.by its Secretary
Transport Department
Secretariat
Chennai 600 009
2. Metropolitan Transport Corporation
(Chennai) Ltd.,
(Old Pallavan Transport Corpn.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 1 to 3 in all the W.P's.

W.P.No.4965 of 2016 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to grant family pension and for payment of arrears of family pension to the petitioner from 1.8.2013, the day following the date of the death of the petitioner's husband by following the judgments in W.A.No.1246 of 2009 dated 18.8.2010 and in W.P.No.33975 of 2005 dated 20.9.2011 and in W.P.No.35674 of 2005 dated 20.9.2011 and in W.P.Nos.18866, 18887, 19394 to 19396 of 2014 dated 27.8.2014 and in W.P.Nos.25880, 25881 of 2015 dated 20.8.2015.

W.P.No.4966 of 2016 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to grant family pension and for payment of arrears of family pension to the petitioner from 5.3.2004, the day following the date of the death of the

petitioner's husband by following the judgments in W.A.No.1246 of 2009 dated 18.8.2010 and in W.P.No.33975 of 2005 dated 20.9.2011 and in W.P.No.35674 of 2005 dated 20.9.2011 and in W.P.Nos.18866, 18887, 19394 to 19396 of 2014 dated 27.8.2014 and in W.P.Nos.25880, 25881 of 2015 dated 20.8.2015.

W.P.No.4967 of 2016 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to grant family pension and for payment of arrears of family pension to the petitioner from 1.6.2014, the day following the date of the death of the petitioner's husband by following the judgments in W.A.No.1246 of 2009 dated 18.8.2010 and in W.P.No.33975 of 2005 dated 20.9.2011 and in W.P.No.35674 of 2005 dated 20.9.2011 and in W.P.Nos.18866, 18887, 19394 to 19396 of 2014 dated 27.8.2014 and in W.P.Nos.25880, 25881 of 2015 dated 20.8.2015.

For Petitioners	::Mr.V.S.Jagadeesan
in all WPs	
For Respondents	::Mr.S.Gunasekaran
in all WPs	Government Advocate for R1
	Mr.P.Kannankumar for R2

ORDER

The petitioners have filed these writ petitions with a common prayer for issuance of a writ of mandamus, directing the first respondent to grant family pension and for payment of arrears of family pension to the petitioners from 1.8.2013, 5.3.2004 & 1.6.2014 respectively, by following the judgments in W.A.No.1246 of 2009 dated 18.8.2010 and in W.P.No.33975 of 2005 dated 20.9.2011 and in W.P.No.35674 of 2005 dated 20.9.2011 and in W.P.Nos.18866, 18887, 19394 to 19396 of 2014 dated 27.8.2014 and in W.P.Nos.25880, 25881 of 2015 dated 20.8.2015.

2. Heard Mr.V.S.Jagadeesan, learned counsel for the petitioners. Mr.S.Gunasekaran, learned Government Advocate takes notice on behalf of the first respondent and Mr.P.Kannankumar, learned standing counsel takes notice on behalf of the second respondent.

3. Mrs.B.Chan Begum, the petitioner in W.P.No.4965 of 2016, claims that her husband late S.Basha was appointed as a Tradesman Liner in the erstwhile State Transport Department in the year 1962. On being absorbed in the Metropolitan Transport Corporation (Chennai) Limited, (old Pallavan Transport Corporation Limited) as a Tradesman Liner, he retired from service on attaining the age of superannuation on 30.6.96 and subsequently passed away on 31.7.2013. The petitioner's husband was also paid with the pension and the Pension Payment Order No.A551449 shows that he had received the monthly pension till

his death. Therefore, the case of the petitioner is that after the death of her husband, she is entitled to receive the family pension on and after the date of death of her husband i.e., 1.8.2013 from the Government. While in service, the petitioner's husband was contributing to the Employees Family Pension Scheme 1995, till he attained the age of superannuation on 30.6.96. It is also her claim that after the death of her husband, she is also receiving Rs.318/- as the monthly family pension under the EPF Scheme, 1995.

4. Mrs.S.Merunnisa, the petitioner in W.P.No.4966 of 2016, claims that her husband late B.Sulaiman Khan was appointed as a Driver on 8.4.1965 in the erstwhile State Transport Department. On being absorbed in the Metropolitan Transport Corporation (Chennai) Limited, (old Pallavan Transport Corporation Limited) in the said post, he took voluntary retirement and was relieved under the Voluntary Retirement Scheme on 31.5.98 in the post of Special Grade Driver and subsequently passed away on 4.3.2004. The petitioner's husband was also paid with the pension and the Pension Payment Order No.DC523333/TPT shows that he had received the monthly pension till his death. Therefore, the case of the petitioner is that after the death of her husband, she is entitled to receive the family pension on and after the date of death of her husband i.e., 5.3.2004 from the Government. While in service, the petitioner's husband was contributing to the Employees Family Pension Scheme, till his voluntary retirement on 31.5.98. It is also her claim that after the death of her husband, she is also receiving Rs.423/- as the monthly family pension under the EPF Scheme, 1995.

5. Mrs.N.Dhanam, the petitioner in W.P.No.4967 of 2016, claims that her husband late K.Natarajan was appointed as Assistant in the erstwhile State Transport Department in the year 1963. On being absorbed in the Metropolitan Transport Corporation (Chennai) Limited, (old Pallavan Transport Corporation Limited) in the said post, he retired from service on attaining the age of superannuation on 28.2.98 in the post of Senior Assistant and subsequently passed away on 31.5.2014. The petitioner's husband was also paid with the pension and the Pension Payment Order No.A561024 shows that he had received the monthly pension till his death. Therefore, the case of the petitioner is that after the death of her husband, she is entitled to receive the family pension on and after the date of death of her husband i.e., 1.6.2014 from the Government. While in service, the petitioner's husband was contributing to the Employees Family Pension Scheme 1995, till he attained the age of superannuation on 28.2.98. It is also her claim that after the death of her husband, she is also receiving Rs.459/- as the monthly family pension under the EPF Scheme, 1995.

6. Now the grievance of all the petitioners is that they have given representations to the first respondent on 3.11.2015, 31.10.2015 & 3.11.2015 respectively, for granting family pension under the Tamil Nadu Pension Rules along with arrears with effect from 1.8.2013, 5.3.2004 & 1.6.2014 respectively on and after the death of their husbands, by following the judgments in W.A.No.1246 of 2009 dated 18.8.2010 and in W.P.No.33975 of 2005 dated 20.9.2011 and in W.P.No.35674 of 2005 dated 20.9.2011 and in W.P.Nos.18866, 18887, 19394 to 19396 of 2014 dated 27.8.2014 and in W.P.Nos.25880, 25881 of 2015 dated 20.8.2015, as given to similarly placed persons. Since the said representations have not been considered till date by the first respondent, they have filed the writ petitions with the aforementioned prayer.

7. The issue raised in these writ petitions is no longer res integra, since I also had an occasion to consider an identical issue in W.P.No.11372 of 2015 filed by one N.Saroja against the very same respondents, who was similarly placed to that of the petitioners, and by order dated 20.4.2015, I had observed as follows:-

''4. Therefore, now the grievance of the petitioner is that she gave a representation dated 24.04.2014 to the first respondent for granting Family Pension under the Tamil Nadu Pension Rules 1978 to the petitioner from 25.03.2007, the date of death of her husband by following the judgments in W.A.No.1246 of 2009 and followed in G.O.(3D) No.38, Transport (RW1) Department, dated 07.09.2011 and the orders passed in Writ Petitions in W.P.Nos.33975 and 35674 of 2005 etc., dated 20.09.2011, as given to the other similarly placed persons. But till date, the first respondent has not shown any sign of disposal of the said representation and hence, she came forward to file this writ petition.

5. This Court, taking into consideration the limited scope of prayer sought for by the petitioner and without going into the merits of the matter, directs the first respondent to consider the representation dated 24.04.2014 submitted by the petitioner and pass orders, in the light of the judgments passed in W.A.No.1246 of 2009, dated 18.08.2010 and in W.P.Nos.33975 and 35674 of 2005, dated 20.09.2011, within a period of ten weeks from the date of receipt of a copy of this order."

8. In view of the above, this Court is inclined to direct the first respondent to consider the representations of the petitioners. In this regard, the petitioners are hereby directed to submit a fresh representation to the first respondent along with the necessary documents including a copy of this order within one week from the date of receipt of a copy of this order and on receipt of such representations from the petitioners as directed in this order, the first respondent is further directed to consider the same, in the light of the judgments of this Court passed in W.A.No.1246 of 2009 dated 18.8.2010 and in W.P.No.33975 of 2005 dated 20.9.2011, W.P.No.35674 of 2005 dated 20.9.2011, W.P.Nos.18866, 18887, 19394 to 19396 of 2014 dated 27.8.2014, W.P.Nos.25880, 25881 of 2015 dated 20.8.2015, and pass appropriate orders within a period of eight weeks thereafter. The writ petitions are disposed of accordingly. No costs.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Transport Department,
Secretariat,
Chennai 600 009.
2. The Managing Director,
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan Salai,
Chennai 600 002.
3. The Commissioner,
Employees Provident Fund,
Regional Office,
No.20, Royapettah High Road,
Chennai 600 014.

+3cc to Mr.V.S.Jegadeesan, Advocate, S.R.No.8494,8495,8493
+1cc to the Government Pleader, S.R.No.9128

W.P.Nos.4965 to 4967 of 2016

skv(CO)
srg(07/04/2016)