



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2016

CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P(MD)No.20244 of 2016

T.Rajeswari

... Petitioner

vs.

1)Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Rep. by its Managing Director,
Madurai.

2)The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Virudhunagar Region, Virudhunagar.

3)The Administrator,
Tamil Nadu State Transport Corporation
Pension Fund Trust, Thiruvalluvar Illam,
Pallavan Salai,
Chennai-600 002.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to effect the payment of dearness allowance on the petitioner's family pension with effect from the date of death of petitioner's husband and to pay the arrears within the time limit that may be fixed by this Hon'ble Court.

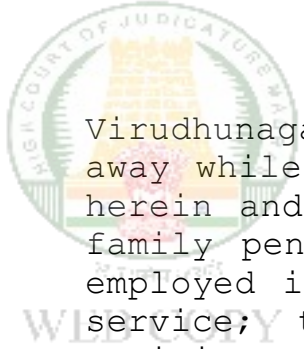
For Petitioner	: Mr.A.Rahul
For R1 & R2	: Mr.A.Jayaram
For R3	: Mr.A.P.Muthupandian

ORDER

The 3rd respondent has awarded family pension to the petitioner excluding the dearness allowance and therefore, this Writ of Mandamus has been filed to direct the respondents to effect the payment of dearness allowance on the petitioner's family pension with effect from the date of death of petitioner's husband and to pay the arrears within a time limit that may be fixed by this Court.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The petitioner's husband was employed as a Foreman at



Virudhunagar Branch of the 1st respondent corporation; he passed away while in service on 05.12.2015 leaving behind the petitioner herein and his son aged 23 years; the petitioner was entitled to family pension on account of the fact that her husband had been employed in the 1st respondent corporation for about 28½ years of service; the 3rd respondent sanctioned family pension to the petitioner from May 2016 @ Rs.9,340/- excluding the dearness allowance; if dearness allowance is also taken into account, the total family pension payable will be Rs.21,015/-; but, without passing any written order, the respondents are withholding the dearness allowance on family pension and hence, this writ petition.

3.The learned counsel for the petitioner has relied upon a judgment of the Hon'ble Supreme Court in **H.S.E.B and others vs. Azad Kaur**, reported in **2000 (2) SCC 227**, whereunder, it has been held that the dearness allowance on family pension can be declined only in cases where (i) the pensioner himself gets re-employment, or (ii) the widow or a dependant of the pensioner gets fresh employment on compassionate grounds.

4.The case on hand is a case, where the petitioner had been employed even prior to the death of her husband. It is not as if the petitioner either got re-employed or the petitioner was appointed on compassionate grounds which should have happened after the death of the deceased. The grounds under which dearness allowance can be declined do not exist in this case.

5.Under such circumstances, denial to count pension taking into account the dearness allowance, cannot be sustained and accordingly, this Writ Petition is allowed directing the 3rd respondent to count pension taking into account the dearness allowance payable and pay the same to the petitioner. No costs.

Sd/-

Assistant Registrar(CRL)

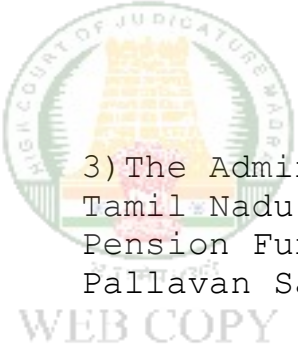
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Sub Assistant Registrar

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To

1)The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Ltd., Madurai.

2)The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Virudhunagar Region, Virudhunagar.



3) The Administrator,
Tamil Nadu State Transport Corporation
Pension Fund Trust, Thiruvalluvar Illam,
Pallavan Salai, Chennai-600 002.

+1cc to Mr.A.Rahul Advocate Sr.No. 65121

JAM/11.11.16/GSV-PM/ 3p-5c

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