



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2016

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.22999 of 2016

and

W.M.P (MD) Nos.16476 and 16477 of 2016

G.Tamilarasi

... Petitioner

vs.

1)The Government of Tamil Nadu,
Rep. by its Principal Secretary to Government
and Chairman of Transport Corporation,
Fort St.George, Chennai-9.

2)The Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Rep. by its Managing Director,
Bye Pass Road, Kumbakonam.

3)The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Pudukottai Region, Pudukottai.

4)The Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Rep. by its Administrator,
Thiruvalluvar House,
Pallavan Salai, Chennai-2.

... Respondents

Petition filed under Article 226 of the Constitution of India,
praying for the issuance of a Writ of Certiorarified Mandamus,
calling for the records pertaining to the impugned order passed by
the 4th respondent in Letter No.44/B2/Tha.Aa.Po.Ka.Vu.O.Ni.Po/2014-
278 dated 16.06.2014, quash the same and consequently direct the
respondents forthwith to pay family pension to the petitioner
under the provisions of Tamil Nadu State Transport Corporation
Employees Pension Fund Rules from the date of death of his husband
without reference to defence family pension being received by the
petitioner, with arrears together with reasonable rate of interest
and to award costs.

For Petitioner	: Mr.A.Rahul
For R1	: Mr.V.R.Shanmuganathan Special Government Pleader
For R2 and R3	: Mr.D.Sivaraman
For R4	: Mr.A.P.Muthupandian

ORDER

This Writ of Certiorari of Mandamus has been filed, calling for the records pertaining to the impugned order passed by the 4th respondent in Letter No.44/B2/Tha.Aa.Po.Ka.Vu.O.Ni.Po/2014-278 dated 16.06.2014, to quash the same and consequently to direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of his husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs.

2. The petitioner's husband who served in the Indian Army, after his discharge, joined as a driver in the 2nd respondent corporation. After rendering 20 years of service, he retired from service on 31.01.2009. After his retirement, he received both the pensions from Indian Army as well as from TNSTC. Subsequently, he died on 04.01.2014. The family pension payable to the petitioner was stopped, on the ground that the petitioner is not entitled to two family pensions.

3. The learned counsel for the petitioner submitted that the issue raised in this writ petition is covered by a Division Bench judgment of this Court in W.A(MD)No.936 of 2011 dated 20.09.2011 (The Management of Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., vs. P.Chandras and another), wherein, it has been held as follows:-

'2. The main issue is that the first respondent's husband was employed in Government service in which also he was getting pension and later he had joined the transport corporation under the scheme. The learned single Judge, in our considered view, has correctly relied upon a judgment of a Division Bench of this Court in **Government of Tamil Nadu and others v. Tamil Nadu Government Transport Retired Employees Welfare Association and others** reported in **2008 (2) LLN 216**, wherein, it has been held that the employees, who may earn pension from the State Government, if allowed pension by the Corporation for the service rendered by them in the Corporation, it will not amount to earning two pension in same service or post at the same time or by way of same continuous service and thereby, not covered under Rule 7 of the Tamil Nadu Pension Rules, and allowed the said writ petition.'

4. The learned standing counsel appearing for the 4th respondent would submit that the matter has been seized of by the Hon'ble Supreme Court and therefore, the prayer in this writ petition can be considered, only in the light of the orders to be passed by the Hon'ble Supreme Court.



5.It is not known when the matter will be disposed of by the Hon'ble Supreme Court. Therefore, the issue can be decided, as per the prevailing legal position as on date. Hence, in the light of the Division Bench Judgment cited supra, the impugned order is liable to be set aside and it is set aside accordingly. The 4th respondent is directed to pay family pension to the petitioner. In the event of the 4th respondent succeeding before the Hon'ble Supreme Court, subject to the orders being passed by the Supreme Court, the 4th respondent can have the liberty to recover the amount from the petitioner.

Accordingly, this Writ Petition is allowed. No costs. Consequently, W.M.P(MD)Nos.16476 and 16477 of 2016 are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1)The Principal Secretary to Government
Government of Tamil Nadu,
and Chairman of Transport Corporation,
Fort St.George, Chennai-9.

2)The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Bye Pass Road, Kumbakonam.

3)The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Pudukottai Region, Pudukottai.

4)The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar House,
Pallavan Salai,
Chennai-2.

+1 cc to M/s.A.Rahul, Advocate in SR.No.79412
+1 cc to M/s.D.Sivaraman, Advocate in SR.No.79318

nbi

TTN/10.01.2017 : 3P-7C