

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

W.P. Nos. 2267 to 2269 of 2017

Mrs.P. Kasthuri

..Petitioner in W.P.
No. 2267 of 2017

Mrs.M. Lakshmiammal

..Petitioner in W.P.
No. 2268 of 2017

Mrs.M. Malikjan

..Petitioner in W.P.
No. 2269 of 2017

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary,
Transport Department,
Secretariat,
Chennai - 600 009.
2. Tamil Nadu State Transport Corporation
(VPM) Ltd.,
(Old Name PT MGR Transport Corporation
Ltd.)
rep. by its Managing Director,
Kancheepuram Division,
Kancheepuram - 631 503.
3. The Commissioner,
Employees Provident Fund,
Regional Office,
No.20, Royapettah High Road,
Chennai - 600 014.

..Respondents in all
the writ petitions

Prayer in W.P. No. 2267 of 2017: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 1st respondent to grant pension to the petitioner's late husband based on G.O.Ms. No. 42 Transport dated 27.05.2005, fixing the cut-off date of his service in the Transport Department as 01.04.1982, construing that the petitioner's husband has put in 17 years 7 months and 3 days of service between 28.08.1964 to 01.04.1982 and to pay the same to the petitioner as lifetime arrears of pensionary benefits for

the period 01.01.1988 to 03.05.1996 ie., the date of death of the petitioner's late husband and to grant family pension to the petitioner from 03.05.1996 by following the judgments in W.A. No. 1246 of 2009 dated 18.08.2010, W.P. No. 33975 of 2005 dated 20.09.2011 and in W.P. No. 35674 of 2005 dated 20.09.2009, 2011 and in W.P.11372 of 2015 dated 20.04.2015.

Prayer in W.P. No. 2268 of 2017: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 1st respondent to grant Family Pension and for payment of arrears of Family Pension to the petitioner from 24.05.1993, the date next to the date of death of the petitioner's husband by following the judgments in W.A. No. 1246 of 2009 dated 18.08.2010 and in W.P. No. 33975 of 2005 dated 20.09.2011.

Prayer in W.P. No.2269 of 2017: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the 1st respondent to grant Family Pension and for payment of arrears of Family Pension to the petitioner from 18.09.1994, the date next to the date of death of the petitioner's husband by following the judgments in W.A. No. 1246 of 2009 dated 18.08.2010 and in W.P. No. 33975 of 2005 dated 20.09.2011.

For Petitioners :: Mr.V.S. Jagadeesan

For Respondents :: Mr.O. Selvam, Govt. Advocate for R1
Mr.P. Kannan Kumar for R2

COMMON ORDER

By consent, all the writ petitions are taken up for final disposal and disposed of by this common order, as the point in issue, in all the writ petitions, is one and the same.

2. The petitioner in W.P. No. 2267 of 2017 would aver that her late husband S.R. Panchatcharam was appointed as a Conductor on 28.08.1964 in the services of erstwhile Tamil Nadu State Transport Department and his service was also regularised. Subsequently, various Transport Corporations came to be formed and the husband of the petitioner was absorbed as a Conductor in the service of 2nd respondent Corporation with Staff No. 3220 and got his promotion as a Special Grade Conductor and died in harness on 03.05.1996. It is further stated by the petitioner that her husband, while he was in service, was contributing to the Employees Family Pension Scheme, 1995, till his demise and after his demise, the petitioner is in receipt of Rs.

534/- as family pension under the said Scheme, which is a very meagre amount when compared to the present inflationary rate. It is the submission of the petitioner that as per G.O.Ms. No.42 Transport (RW) Department dated 27.05.2005, the cut-off date of her husband's service in the Transport Department was fixed as 01.04.1982 and consequently, he was paid pension from 01.01.1988. According to the petitioner, even prior to the sanction of pension as per the said Government Order, her husband had expired and hence, pension was not paid to him and it was directed to be paid only from 01.01.1988. The Government had also issued orders stating that employees of erstwhile Tamil Nadu State Transport Department, who were permanently absorbed in the Transport Corporation, are not entitled to the benefit of Family Pension and it was put to challenge in W.P. No. 21204 of 1992 by the Tamil Nadu State Transport & Transport Corporations Retired Employees Association and the same was allowed by this Court and the benefit was granted only to the members of the petitioner Association therein. Yet another writ petition in W.P. No. 19585 of 2003 was filed by the very same Association and by order dated 11.02.2004, it was allowed and in compliance of the same, the 1st respondent had passed G.O.Ms. No. 189 Transport (RW1) Department dated 13.08.2004. As a consequence, spouses of erstwhile pensioners were extended the benefit of Family Pension and according to the petitioner, since she is also similarly placed, she is entitled to the said relief. It is also submitted by the petitioner that one Loganayaki, spouse of an ex-employee, similarly placed like the petitioner, had filed W.P. No. 35643 of 2007 praying for similar relief and it was rejected by order dated 12.01.2009 and challenging the same, W.A. No. 1246 of 2009 was filed and it was disposed of on 18.08.2010 directing the Government to sanction family pension with certain conditions and challenging the same, the Government filed SLP (Civil Appeal) CC No. 8381 of 2011 and it was dismissed on 13.05.2011. Thereafter, the Government has also complied with the order by issuing G.O.(3D) No.38 Transport (RW1) Department dated 07.09.2011. The petitioner, in this regard, has submitted a representation dated 10.03.2016 to the 1st respondent and though it was received and acknowledged, it is yet to be given disposal and therefore, came forward to file the present writ petition.

3. The petitioner in W.P. No. 2268 of 2017 would aver that her late husband M.S. Mani was appointed as a Driver on 21.04.1968 in the services of erstwhile Tamil Nadu State Transport Department and was allotted Staff No. 4872. Subsequently, various Transport Corporations came to be formed and the husband of the petitioner was absorbed as a Driver in Pattukottai Azhagiri Transport Corporation Limited, Vellore and then he was transferred to PT MGR Transport Corporation Limited and was allotted Staff No. 4333. The petitioner's husband died

in harness on 23.05.1993. The petitioner herein has made a similar claim as that of the petitioner in W.P. No. 2267 of 2017 and has also submitted a representation dated 12.04.2016 to the 1st respondent. Since no orders have been passed on the said representation, came forward to file the above writ petition.

4. The petitioner in W.P. No. 2269 of 2017 would state that her late husband S. Syed Mohadeen was appointed as a Conductor on 04.11.1964 in the services of erstwhile Tamil Nadu State Transport Department. Subsequently, various Transport Corporations came to be formed and the husband of the petitioner was absorbed as a Conductor in PT MGR Transport Corporation Limited and he was allotted Staff No. 3263. The petitioner's husband died in harness on 17.09.1994. The petitioner herein has made a similar claim as that of the petitioners in W.P. Nos. 2267 & 2268 of 2017 and has also submitted a representation dated 12.04.2016 to the 1st respondent. Since no orders have been passed on the said representation, came forward to file the above writ petition.

5. Mr.V.S. Jagadeesan, learned counsel for the petitioners has drawn the attention of this Court to the above cited orders and would submit that the 1st respondent, in compliance of various orders passed by this Court, had issued G.O. (3D) Nos. 20, 22 and 23 Transport (RW1) Department dated 18.07.2013, 25.07.2013 and 25.07.2013 respectively and this Court, had also, in similar facts and circumstances, passed an order dated 20.04.2015 in W.P. No. 11372 of 2015 (N. Saroja V. The State of Tamil Nadu, rep. by its Secretary, Transport Department, Secretariat, Chennai - 600 009 and 2 others). Yet another order dated 20.08.2015 was also passed in W.P. Nos. 25880 & 25881 of 2015 (Mrs.C. Munirathinam and another V. The State of Tamil Nadu, rep. by its Secretary, Transport Department, Secretariat, Chennai - 600 009 and 3 others) and therefore, prays for similar orders.

6. This Court heard the submissions of Mr.O. Selvam, learned Government Advocate, who appears for the 1st respondent and Mr.P. Kannan Kumar, learned counsel, who appears for the 2nd respondent.

7. This Court, taking into consideration, the above facts and circumstances, directs the 1st respondent to consider the representations of the respective petitioners dated 10.03.2016, 12.04.2016 & 12.04.2016 and pass orders, on merits and in accordance with law, after taking note of the above cited orders as well as the Government Orders, referred to above, within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken to the respective

petitioners. The writ petitions are disposed of accordingly.
No costs.

sd/
Assistant Registrar(CS III)

/true copy/

Sub Assistant Registrar

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To

1. The State of Tamil Nadu,
rep. by its Secretary,
Transport Department,
Secretariat,
Chennai - 600 009.
2. Tamil Nadu State Transport Corporation
(VPM) Ltd.,
(Old Name PT MGR Transport Corporation
Ltd.)
rep. by its Managing Director,
Kancheepuram Division,
Kancheepuram - 631 503.
3. The Commissioner,
Employees Provident Fund,
Regional Office,
No.20, Royapettah High Road,
Chennai - 600 014.

+3cc to Mr.V.S.Jagadeesan, Advocate SR.No.5761
+1cc to Mr.P.Kannan Kumar, Advocate SR.No.6336
+3cc to Government Pleader, Advocate SR.No.6247.

W.P. Nos. 2267 to 2269 of 2017

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