

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2017

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.6478 of 2012

V.Valarmathi

... Petitioner

Vs.

1. The Administrator,
Tamil Nadu State Transport Corporation,
Employees Pension Trust, Thiruvalluvar House,
Pallavan House, Chennai 2.
2. The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Kumbakonam Division-No.1,
Kumbakonam.

... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to disburse family pension together with arrears from date of stopping the family pension in the year 2003, together with 12% interest by taking note of this Court order made in W.A.Nos.685 of 2011, 967 of 2011 and etc., batch dated 30.04.2015 to the petitioner within stipulated time.

Prayer amended as per order dated 17.08.2017
in W.M.P.No.22627 of 2017 in W.P.No.6478 of 2012

For Petitioner : Mr.C.Prakasam
For Respondents : Mr.P.Paramasivadoss,

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O R D E R

Heard Mr.C.Prakasam, learned counsel appearing for the petitioner and Mr.P.Paramasivadoss, learned counsel appearing for the respondents.

2.The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Mandamus, to direct the respondents to disburse family pension together with arrears from date of stopping the family pension in the year 2003, together with 12% interest by taking note of this Court order made in W.A.Nos.685 of 2011, 967 of 2011 and etc., batch dated 30.04.2015 to the petitioner within stipulated time."

3. The case of the petitioner is as follows:

The Petitioner's husband Mr.Vijayakumar was working as Driver in Tamil Nadu State Transport Corporation at Nagapattinam Depot. While in service in discharge of his duties, the petitioner's husband died in accident on 03.08.2001, leaving behind the petitioner, one minor daughter and one minor son and his aged parents.

4. The petitioner then approached the respondents for granting of family pension as per the Government Orders. The petitioner's husband was also an Ex-service man and was in receipt of pension from his defence service. After his discharge from the Defence Service, he was employed in Transport Department. The petitioner was also entitled to family pension from the respondents and the same was received by the petitioner till 2003. Thereafter, it appears that the pension which was being granted earlier was stopped.

5. In the above circumstances, the petitioner has submitted her representations. According to the petitioner, G.O.Ms.No.103, Transport Department, dated 26.08.2003, the petitioner's husband was entitled to pension/family pension. However, later on the petitioner came to know that the family pension was not paid from 2003 onwards, in view of the fact that the petitioner was in receipt of double pension and therefore, double pension was not to be allowed.

6. when the matter was taken up for hearing, the learned counsel would submit that the matter is entirely covered in favour of the petitioner and relied upon the decision passed by the Hon'ble Division Bench of this Court, in the case of Deputy Secretary to the Government of Tamil Nadu, Transport Department Vs. Chandramanai, reported in 2015(3) LLJ 172, in the said decision, the Hon'ble Division Bench of this Court has clearly held that the receipt of pension under rules are two different pensions paid for different services rendered by persons in two different organisations and the same cannot be denied. The Hon'ble Division Bench order has confirmed the order passed by the learned single Judge in allowing two pension, one from the defence and other from the civilian employment after discharge from military services.

7. Upon notice, the learned counsel for the respondents entered appearance. He would submit that the Division Bench order cited by the learned counsel for the petitioner, covered the issue raised in the writ petition.

8. In the above circumstances, the writ petition is allowed and the respondents are directed to disburse the family pension with arrears to the petitioner from the date of discontinuance of the same and continue to pay the family pension with interest of 10% from the date, the pension became payable and till the date of payment. The respondents are directed to pass order of granting family pension to the petitioner as directed above, within a period of two months from the date of receipt of a copy of this order.

9. with the above direction, the writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1. The Administrator,
Tamil Nadu State Transport Corporation,
Employees Pension Trust, Thiruvalluvar House,
Pallavan House, Chennai 2.
2. The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Kumbakonam Division-No.1,
Kumbakonam.

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EV(CO)
VR(13/09/2017)