

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION No. 18251 of 2017

Mrs.M.Dilli

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep.by its Secretary,
Transport Department,
Secretariat,
Chennai - 600 009.
 2. Metropolitan Transport Corporation Ltd.,
(Old Name Pallavan Transport Corporation 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

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st Respondent to grant Family Pension and for payment of arrears of Family Pension to the Petitioner from 04.03.2017, the date following the date of the 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 and in W.P.No.35674 of 2005 dated 20.09.2011 and in W.P.No.11372 of 2015 dated 20.04.2015.

For Petitioner : Mr.V.S.Jagadeesan

For Respondents : Mr.M.Perumal
Government Advocate (For R1)

Mr.P.Paramasivadoss (For R2)

O R D E R

The relief sought for in this writ petition is for a direction to the first respondent to grant family pension and payment of arrears of family pension to the petitioner.

2. The husband of the writ petitioner was working in the erstwhile State Transport Department and thereafter, transferred to the Transport Corporation. The husband of the writ petitioner, till his death, was receiving the State pension under the Tamil Nadu Pension Rules. After his demise, the family pension under the Tamil Nadu Pension Rules has not been paid to the writ petitioner. Hence, the writ petitioner is constrained to move this writ petition.

3. The issue relating to the grant of pension and family pension to the erstwhile State Transport Department of the State was settled by the Hon'ble Bench of this Court in Writ Appeal No.1246 of 2009 dated 18th August, 2010. The Division Bench passed the following orders:

"Accordingly, we direct the first respondent to sanction the family pension to the appellant with effect from 13.08.2004. Such exercise shall be completed within eight weeks from the date of receipt of a copy of this order. However, she is not entitled to the Employee's Provident Fund pension. The first respondent is permitted to deduct the Employees Provident Fund Pension paid to the appellant for the period from 13.08.2004, as well as the amount paid to her husband by way of Employer's contribution viz., Rs.50,788/- from the arrears payable to her. In case the arrears amount is not sufficient to recover the amount indicated above, it is open to the respondents to recover the balance from the monthly pension payable to the petitioner in 36 equal instalments.

25. The writ appeal is disposed of as indicated above. No costs."

4. The Special Leave Petition Number CC.8381/2011 filed by the Secretary to Government, Transport Department, was also dismissed by the Hon'ble Supreme Court of India on 13th May, 2011. Thus, the order passed by the Division Bench of this Court became final and the learned counsel for the petitioner contended that the order of the Division Bench was implemented by the respondent in G.O.(3D)No.38 Transport RW1 Department, dated 7th September, 2011. Accordingly, the writ petitioner is also entitled for the same relief.

5. In view of the facts stated above, this Court is inclined to direct the respondents to consider the case of the writ

petitioner for family pension, in the light of the judgment of the Hon'ble Division Bench of this Court passed in writ appeal No.1246 of 2009 dated 18th August, 2010 and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order. Accordingly, the writ petition stands disposed of. However, there is no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kak/maya

To

1. The Secretary,
State of Tamil Nadu,
Transport Department,
Secretariat,
Chennai - 600 009.
2. The Managing Director,
Metropolitan Transport Corporation Ltd.,
(Old Name Pallavan Transport Corporation Ltd.,)
Pallavan Salai,
Chennai - 600 002.
3. The Commissioner,
Employees Provident Fund,
Regional Office,
No.20, Royapettah High Road,
Chennai - 600 014.

+1cc to M/s.V.S.Jagadeesan, Advocate, S.R.No.50407
+1cc to M/s.P.Paramasivadoss, Advocate, S.R.No.51067
+1cc to the Government Pleader, S.R.No.50986

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W.P.No.18251 of 2017

SAI (CO)
CU(09/08/2017)