

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.34194 of 2012

S. Mohana

.. Petitioner

vs.

1. The Secretary to Government
Transport Department
Secretariat,
Chennai - 600 009.

2. The Managing Director
State Express Transport
Corporation (SETC)
Pallavan Salai
Chennai - 600 002.

3. The Regional Provident Fund
Commissioner, Royapettah
Chennai - 600 014.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the first and second respondents to take steps for sanction of service family pension to the petitioner from 07.03.2001, on receipt of an undertaking by the petitioner to forego the EPF Family pension now being received by her and to make payments within a time limit and to pass necessary orders.

For Petitioner : Mr. Ma.P. Thangavel

For Respondents : Mr. S. Navaneethan
Addl. Govt. Pleader for R1

Mr. R. P. Prathap Singh for R2
Mr. A.P. Surya Prakasam for R3

ORDER

The petitioner has filed this writ petition seeking to direct the first and second respondents to take steps for

sanction of service family pension to her from 07.03.2001, on receipt of an undertaking by the petitioner, to forego the EPF Family pension now being received by her and to make payments within a stipulated time.

2. Learned counsel appearing for the petitioner and the respondents submitted that the issue involved in the present writ petition is squarely covered by the decision issued by the Division Bench of this Court in W.A. No.1246 of 2009 on 18.08.2010.

3. The relevant portion of the aforesaid judgment is extracted below :

" 22. Therefore, we are of the view that the respondents were not justified in denying family pension to the appellant solely on the ground that she was receiving pension under Employees' P.F. Scheme.

23. the learned counsel for the appellant on instructions would submit that the appellant is prepared to exercise the option by restricting her claim to the family pension as announced by the Government in G.O.Ms. No.110 dated 6.6.2002 and the subsequent order in G.O.Ms.No.189 dated 13.08.2004.

24. 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 Employees' 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 Employee'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."

4. In view of the above decision, the 2nd respondent is directed to submit the proposal to the 1st respondent, within a period of six weeks, to sanction the family pension of the petitioner, with effect from 13.08.2004. On receipt of the said proposal, the 1st respondent is directed to sanction the family pension to the petitioner within a period of twelve weeks, thereafter. The amount already granted to the petitioner under

Employees' Provident Fund pension, shall be adjusted at the time of sanctioning the family pension amount to the petitioner.

5. The writ petition is allowed, on the above terms.
No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

avr

To

1. The Secretary to Government
Transport Department
Secretariat,
Chennai - 600 009.
2. The Managing Director
State Express Transport
Corporation (SETC)
Pallavan Salai
Chennai - 600 002.
3. The Regional Provident Fund
Commissioner, Royapettah
Chennai - 600 014.

+1cc to M/s.Ma.P.Thangavel, Advocate SR.No.10498
+1cc to M/s.R.P.Prathap Singh, Advocate SR.No.10961
+1cc to M/s.A.P.Surya Prakasam, Advocate SR.No.10450

सत्यमेव जयते

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SJ(CO)
GN(20/04/2017)

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