

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.19231 of 2013
and
W.M.P. No. 31587 of 2016

Adaikalam .. Petitioner

vs.

1. The Secretary to Government
Transport (RW.1) Department
Secretariat,
Chennai - 600 009.
2. The Managing Director
Pallavan Transport Corporation
now known as Metropolitan
Transport Corporation
Chennai Pallavan Illam
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 respondent to take steps for granting service family pension, instead of family pension the petitioner is receiving under EPF Family Pension and to pass necessary orders.

For Petitioner : Mr. C. Manohar

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

Mr. P. Paramasivadosh for R2

Mr. A.P. Surya Prakasam for R3

ORDER

The petitioner has filed this writ petition seeking to direct the first respondent to take steps for granting service family pension, instead of family pension, which she is receiving under EPF Family Pension.

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 order passed in W.A. No.1246 of 2009 dt. 18.08.2010 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. Consequently, the connected M.P is closed. No costs.

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Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Transport (RW.1) Department
Secretariat, Chennai - 600 009.
2. The Managing Director
Pallavan Transport Corporation
now known as Metropolitan
Transport Corporation
Chennai Pallavan Illam
Chennai - 600 002.
3. The Regional Provident Fund
Commissioner, Royapettah
Chennai - 600 014.

+1 C.C. to M/S. P.PARAMASIVADOSS Advocate SR.NO.10692

+1 C.C. to M/S.N.SUNDARAMURTHY Advocate SR.NO.10378

+1 C.C. to M/S.A.P.SURYAPRAKASAM Advocate SR.NO.10451

+1 C.C. to The Government Pleader SR.NO.10745

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SCD (CO)
VS 18.04.2017



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