



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2017

CORAM:

THE HON'BLE Mr.JUSTICE **S.S.SUNDAR**

W.P (MD) No.15462 to 15468 of 2014, 5976, 9961, 10528 and 10538 to
10540 of 2015, 972 to 975 of 2016, 1477 and 1938 of 2017

and

M.P. (MD) Nos.1,1,1,1,1,1,1 and 2 of 2014, 1 & 1 of 2015, W.M.P.
(MD) Nos.776 to 779 of 2016, W.M.P. (MD) Nos.1196 and 1592 of
2017

E.ANNALAKSHMI,	... PETITIONER in WP(MD) No.15462 of 2014
S. NAGAMANI	... PETITIONER in WP(MD) No.15463 of 2014
K.GURUVAMMAL	... PETITIONER in WP(MD) No.15464 of 2014
M. RAJALAKSHMI	... PETITIONER in WP(MD) No.15465 of 2014
R.MUTHULAKSHMI	... PETITIONER in WP(MD) No.15466 of 2014
N.KRISHNAMMAL	... PETITIONER in WP(MD) No.15467 of 2014
PADMA	... PETITIONER in WP(MD) No.15468 of 2014
D. PUSHPAM	... PETITIONER in WP(MD) No.5976 of 2015
S.JEYARANI	... PETITIONER in WP(MD) No.9961 of 2015
K.ELANGESWARI	... PETITIONER in WP(MD) No.10528 of 2015
A. KACHAMMAL	... PETITIONER in WP(MD) No.10538 of 2015
K.GOMATHI	... PETITIONER in WP(MD) No.10539 of 2015
A.SIVANAMMAL	... PETITIONER in WP(MD) No.10540 of 2015
G. VELLATHAI	... PETITIONER in WP(MD) No.972 of 2016
P.VIJAYAKUMARI	... PETITIONER in WP(MD) No.973 of 2016
R.ADHILAKSHMI	... PETITIONER in WP(MD) No.974 of 2016
T. RAJESWARI	... PETITIONER in WP(MD) No.975 of 2016
A.VELAYEE	... PETITIONER in WP(MD) No.1477 of 2017
S. S. SUNDAR	... PETITIONER in WP(MD) No.1938 of 2017

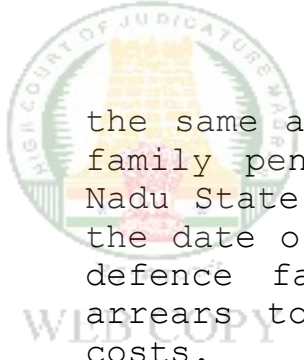


Vs.

1. THE GOVERNMENT OF TAMIL NADU,
REP. BY ITS PRINCIPAL SECRETARY TO GOVERNMENT AND
CHAIRMAN OF TRANSPORT CORPORATIONS,
FORT ST. GEORGE,
CHENNAI - 600 009. ... R1 IN WP(MD) NOS. 15462 TO 15468/14,
5976, 9961, 10528 & 10538 TO 10540/2015,
972 TO 975/16
2. THE TAMIL NADU STATE TRANSPORT CORPORATION (KUMBAKONAM) LTD.,
REP. BY ITS MANAGING DIRECTOR,
KUMBAKONAM. ... R1 IN WP(MD) NOS. 1477/17 & 1938/17
3. THE TAMIL NADU STATE TRANSPORT CORPORATION (MADURAI) LTD.,
REP. BY ITS MANAGING DIRECTOR,
BYE PASS ROAD,
MADURAI. ... R2 IN WP NOS. 15462 TO 15467/14,
10528, 10538 TO 10540/15, 972 TO 975/16
4. THE STATE EXPRESS TRANSPORT CORPORATION (TAMIL NADU) LTD.,
REP. BY ITS MANAGING DIRECTOR,
PALLAVAN SALAI,
CHENNAI - 2. ... R2 IN WP(MD) NO. 15468/2014
5. THE GENERAL MANAGER,
TAMIL NADU STATE TRANSPORT CORPORATION (KUMBAKONAM) LTD.,
KARAIKUDI REGION,
KARAIKUDI. ... R2 IN WP(MD) NOS. 1477/17 & 1938/17
6. THE STATE EXPRESS TRANSPORT CORPORATION LTD.,
REP. BY ITS MANAGING DIRECTOR,
PALLAVAN SALAI,
CHENNAI - 2. ... R2 IN WP(MD) NOS. 5976/15 & 9961/15
7. THE TAMIL NADU STATE TRANSPORT CORPORATION,
EMPLOYEES PENSION FUND TRUST,
REP. BY ITS ADMINISTRATOR,
THIRUVALLUVAR HOUSE,
PALLAVAN SALAI,
CHENNAI-2. ... RESPONDENT NO. 3 IN WP(MD) NOS. 15462/14 TO
15468 /14, 5976/15, 9961/15, 10528, 10538 TO
10540/15, 972 TO 975/16, 1477 & 1938/17

Prayer in WP(MD) No. 15462 of 2014:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari for the records pertaining to the impugned order passed by the 3rd respondent in Letter No. 44/B2/Tha.Aa.Po.Ka.Vu.O.Ni.Po/2014-1158 dated 19.02.2014, quash



the same and consequently direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of the petitioner's husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs.

Prayer in WP(MD) No.15463 of 2014:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Letter No.

44/B2/Tha.Aa.Po.Ka.Vu.O.Ni.Po/2014-296 dated 16.6.2014, quash the same and consequently direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of the petitioner's husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs.

Prayer in WP(MD) No.15464 of 2014:

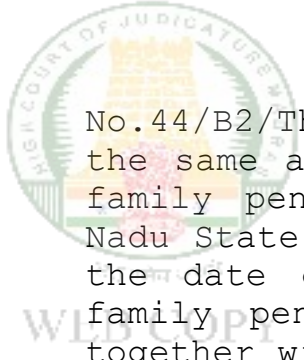
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Letter No.44/B2/Tha.Aa.Po.Ka.Vu.O.Ni.Po/2014-94 dated 25.04.2014, quash the same and consequently direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of her husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs and pass such further or other orders.

Prayer in WP(MD) No.15465 of 2014:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents forthwith to pay family pension to the petitioner under the TamilNadu state transport Corporation Employees Pension Fund Scheme and Rules framed under the said scheme from the date of death of petitioner's husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs .

Prayer in WP(MD) No.15466 of 2014:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Letter



No.44/B2/Tha.Aa.Po.Ka.Vu.O.Ni.Po/2014-297 dated 16.6.2014, quash the same and consequently direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of her husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs.

Prayer in WP(MD) No.15467 of 2014:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Letter No.44/B2/Tha.Aa.Po.Ka.Vu.O.Ni.Po/2014 dated 16.06.2014, quash the same and consequently direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of her husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs.

Prayer in WP(MD) No.15468 of 2014:

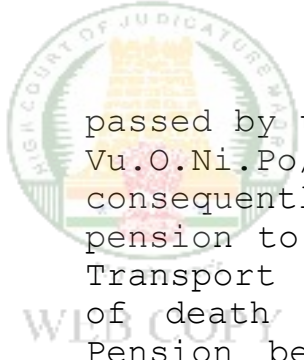
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Letter No.44/B2/Tha.Aa.Po.Ka.Vu.O.Ni.Po/2014-1224 dated 10.03.2014, quash the same and consequently direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of her husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs.

Prayer in WP(MD) No.5976 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Order passed by the 3rd Respondent in Letter No. 44/B2/Tha.Aa.Po.Ka Vu.O.Ni.Po/2014-1223 dated 10.03.2014, quash the same and consequently direct the respondent forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of her husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs.

Prayer in WP(MD) No.9961 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order



passed by the 3rd respondent in letter No.44/B2/Tha.Aa.Po.Ka. Vu.O.Ni.Po/2014-807 dated 29.9.2014, quash the same and consequently direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of her husband without reference to Military family Pension being received by the petitioner with arrears together with reasonable rate of interest and to award costs.

Prayer in WP(MD) No.10528 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of the Petitioner's Husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs.

Prayer in WP(MD) No.10538 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Order passed by the 3rd Respondent in Letter No. 44/B2/Tha.Aa.Po.Ka. Vu.O.Ni.Po./2014-591 dated 05.08.2014, quash the same and consequently direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of the petitioner s husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs.

Prayer in WP(MD) No.10539 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Order passed by the 3rd Respondent in Letter No. 44/B2/Tha.Aa.Po.Ka. Vu.O.Ni.Po./2014-989 dated 13.11.2014 , quash the same and consequently direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of the petitioner s husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs.

Prayer in WP(MD) No.10540 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Order passed by the 3rd Respondent in Letter No. 44/B2/Tha.Aa.Po.Ka. Vu.O.Ni.Po./2014-590 dated 05.08.2014 , quash the same and



consequently direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of the petitioner's husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs.

Prayer in WP(MD) No.972 of 2016:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Letter No.44/B2/Tha.Aa.Po.Ka.Vu.O.Ni.Vo/2014-515 dated 04.08.2014, quash the same and consequently direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of his husband without reference to defence family pension being received by me, with arrears together with reasonable rate of interest and to award costs.

Prayer in WP(MD) No.973 of 2016:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in Ka.No.44/B2/Tha.Aa.Po.Ka.Vu.O.Ni.Po/2014-593 dated 05.08.2014, quash the same and consequently direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of her husband without reference to defence family pension being received by the petitioner with arrears together with reasonable rate of interest and the award costs.

Prayer in WP(MD) No.974 of 2016:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Letter No.44/B2/Tha.Aa.Po.Ka.Vu.O.Ni.Vo/2014-588 dated 04.08.2014, quash the same and consequently direct the respondents to forthwith to pay family pension to the petitioner under the Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of petitioners husband without reference to defence family pension being received by the petitioner with arrears together with reasonable rate of interest and the award costs.

Prayer in WP(MD) No.975 of 2016:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to forthwith to pay family pension to the petitioner under the Tamil Nadu State Transport Corporation



Employees Pension Fund Scheme and Rules framed under the said scheme from the date of death of petitioners husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest and to award costs.

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Prayer in WP(MD) No.1477 of 2017:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of petitioner without reference to defence family pension being received by petitioner, with arrears together with reasonable rate of interest and to award costs.

Prayer in WP(MD) No.1938 of 2017:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of petitioner without reference to defence family pension being received by petitioner, with arrears together with reasonable rate of interest and to award costs.

For Petitioner : Mr.A.Rahul
(In all Writ Petitions)

For Respondents : Mr.C.Selvaraj,
Special Government Pleader,
(for R1 in Wp(MD).Nos.5462 to 15467/14,
10528, 10538 to 10540/15, 972/16)

Mr.A.Jeyaram,
Standing Counsel for TNSCT.
(In W.P(MD)Nos.972 to 975 of 2016,
W.P(MD)Nos.10528, 10538 of 2015)

Mr.D.Sivaraman,
Standing Counsel for TNSCT.
(In W.P(MD)Nos.1477, 1938 of 2017)

Mr.K.Sathyasingh
Standing Counsel for TNSCT.
(In W.P(MD)Nos.9961 & 5976 of 2015)

Mr.A.P.Muthupandian,
Standing Counsel for TNSCT.
(for Administrator in All WP's)

**COMMON ORDER**

Except W.P.(MD) No.15465 of 2014, W.P.(MD) No.10528 of 2015, W.P.(MD) No.975 of 2016, W.P.(MD) Nos.1477 and 1938 of 2017, the prayer in all other Writ Petitions is to quash the order of the Administrator, dated 19.02.2014, 16.06.2014, 25.04.2014, 16.06.2014, 16.06.2014, 10.03.2014, 10.03.2014, 29.09.2014, 05.08.2014, 13.11.2014, 05.08.2014, 04.08.2014, 05.08.2014 and 04.08.2014 refusing to grant family pension to the petitioners, as widows of employees of the Transport Corporation.

2.In all these cases, the petitioners are the widows of employees of the respondents. The husbands of petitioners were earlier serving in Indian Army and reemployed in the first respondent Corporation. The question is about the entitlement of the petitioners to get family pension under the provisions of Tamil Nadu State Transport Corporation Employees Pensions Fund Rules from the date of death of respective petitioners' husbands. Since the petitioners were receiving family pension from the Defence Department, the case of the respondents is that the petitioners are not entitled to double family pension.

3.The learned counsel for the respondents also relied upon the Government letter dated 23.08.2004. As per the Government letter, if the petitioners did not waive the military pension, the petitioners are not entitled to pension from Tamil Nadu State Transport Corporation. It was further submitted that in the absence of specific rule enabling the petitioners to draw pension from both departments, after the death of original pensioners, the petitioners are not entitled to get family pension from Tamil Nadu State Transport Corporation.

4.The learned Counsel for the petitioners relied upon G.O.(Ms).No.290, Public (Ex-servicemen) Department, dated 05.04.2017 wherein it has been specifically stipulated as follows:

"4.After careful examination, the Government has decided to accept the proposal of the Joint Director (i/c), Directorate of Ex-Servicemen's Welfare and accordingly order for the sanction of Dual Family Pension to those families of Ex-Servicemen who have been re-employed in Civil (i.e) State Government Service and earned a pension out of the re-employment prior to 01.04.2003 (i.e) before the introduction of Contributory Pension Scheme, in addition to Military Family Pension already drawn by them.

5.This order shall take effect from 02.09.2016."

<https://hcservices.ecourts.gov.in/hcservices/> 5.The learned Counsel for the petitioners relied upon a judgement of a learned Single Judge of this Court in the case of



P.Chandra v. The Management of Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., in W.P(MD)No.11620 of 2008, dated 19.10.2010. The relevant portion in the judgement of the learned Single Judge is extracted below for convenience:

"6.Mr.S.Arunachalam, learned counsel for the petitioner submitted that the issue raised in this Writ Petition is squarely covered by a Division Bench Judgement of this Court in Government of Tamil Nadu and others V.Tamil Nadu Government Transport Retired Employees Welfare Association and others reported in 2008 (2)L.L.N.216.

7.More or less dealing with the concept of drawing two different pension, the Division Bench in paragraph 14 had observed as follows:

"14.There is a difference of pension as is paid by the State Government and the pension as is paid by the Transport Corporation. So far as the State Government is concerned, its expenditure towards pension is made from the consolidated fund of the State Government, but so far as the Transport Corporation is concerned, pension is not paid from the consolidated fund of the State or from the State Government or any other local authority, but is paid from the funds generated by the Corporation. A separate budgetary provision is made by the State Government every year to meet the expenditure towards payment of pension to the State Government pensioners. On the other hand, no such budgetary provision is made by State Government for payment of pension to the employees of the transport Corporation, which is generated from the earning of the employees' contribution of contributory provident fund under the pension fund trust formed for the purpose of the transport Corporation. There is a difference between the two types pension, one paid by the State Government to its employees, which is not contributory in nature, but so far as the Corporation, is concerned, it is dependant upon contribution of the employee. While the State is bound to pay the pension to the Government employees, it has no liability nor required to give any guarantee to the corporation to pay pension to employees of the corporation.

Thus it will be evident that the employees, who may earn pension from the State Government, if



allowed pension by the Corporation for the service rendered by them in the Corporation, it will not amount to earning two pension in same service or post at the same time or by way of same continuous services and, thereby, not covered under Rule 7 of the Tamil Nadu Pension Rules."

8. In that case, the Division Bench Dealt with the case of a transport worker who got retired from Government Transport and was getting pension from the Government as a Government pensioner and thereafter the pension as per the scheme entered into by way of 12 (3) settlement. The question arose, whether the drawal of pension from the Government excludes the drawal of the second pension from the Corporation. When reliance was placed upon Rule 7 of the pension Rules reading the number of pension that a Government servant can earn, the same was answered by the Division Bench as set out above in paragraph 14 of the judgment.

9. In the present case, the case of the petitioner is slightly better than the case dealt with by the Division Bench. The petitioner's husband was drawing pension from the defence department for the service rendered in that department and it has got nothing to do with the pension payable in terms of the service governed by the pension Rules covered by 12(3) settlement.

10. In the light of the same, the Writ Pension is allowed except to the extent of demand for 18% interest. The pension amount due and payable to the petitioner shall be determined after processing the application and shall be paid to the petitioner, within a period of 12 weeks from the date of receipt of a copy of this order together with arrears. However, there will be no order as to costs."

6. Going by the principles that was reiterated by the judgement of this Court, the position in favour of the petitioners is evident. The learned counsel for the petitioners then relied upon a judgement of the Hon'ble Division Bench of this Court in the case of The Management of Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., v. P. Chandra and another in W.A. (MD) No. 926 of 2011, dated 20.09.2011. Even there, Hon'ble Division Bench has taken the view that an employee can also earn pension from the State Government even if he was allowed to get pension from the Corporation for the services rendered by him in the Corporation and that it will not amount to earning two pension in the same service or same post. Following the above two judgments,

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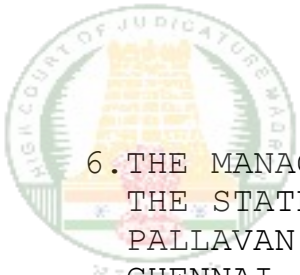
Assistant Registrar (Co)

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Sub Assistant Registrar

To

- <https://hcservices.tamcourts.gov/AidUserSiteX>



6. THE MANAGING DIRECTOR,
THE STATE EXPRESS TRANSPORT CORPORATION LTD.,
PALLAVAN SALAI,
CHENNAI - 2.

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7. THE ADMINISTRATOR,
THE TAMIL NADU STATE TRANSPORT CORPORATION,
EMPLOYEES PENSION FUND TRUST,
THIRUVALLUVAR HOUSE,
PALLAVAN SALAI,
CHENNAI-2.



S.S.SUNDAR., J.

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SRM/DSS

W.P(MD)No.15462 to 15468 of 2014, 5976, 9961, 10528 and 10538 to 10540 of 2015, 972 to 975 of 2016, 1477 and 1938 of 2017

05.06.2017