

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.04.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1268 of 2019

Daulath Bee

..Petitioner

vs

1.State of Government of Tamil Nadu,
Represented by its Secretary,
Transport Department,
Secretariat,
Chennai - 600 009

2.M/s.State Express Transport Corporation Ltd.,
Represented by its Managing Director,
No.2, Pallavan Salai,
Chennai - 600 002

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to settle the terminal benefits and family pension payable to the petitioner's husband and pay the consequential arrears from 01.01.1996 with 12% interest by considering the representation of the petitioner dated 19.12.2018.

For Petitioner : Mr.D.Soundar Raj

For Respondents : Mr.A.N.Thambidurai
Special Government Pleader for R1

M/s.Rajeni Ramadoss for R2

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to settle the terminal benefits and family pension payable to the petitioner's husband and pay the consequential arrears from 01.01.1996 with 12% interest by considering the representation of the petitioner dated 19.12.2018.

2.The husband of the writ petitioner Late Sri.Adul Sathar was employed in the State Express Transport Corporation and he died after his retirement. The Family pension and other consequential benefits as admissible under the Rules are yet to be disbursed to the writ petitioner.

3.The grievances of the writ petitioner is that this Court passed an order on 27.08.2007 in W.P.No.8457 of 1996 and W.P.No.11907 of 1996 and the relevant portion of the orders are extracted hereunder:-

"9. In the light of the said legal position and applying the same to the case on hand, since the first petitioner indisputedly reached the age of superannuation on 31.12.1995, the order of dismissal passed on 23.04.1996 without any provision available in the Standing Orders applicable to the first respondent Corporation or any other service regulation available as on date enabling the respondent Corporation for retaining or extending the period of service of an employee, specifically for the purpose of continuing the disciplinary action initiated against the first petitioner on 23.09.1995, the impugned order of dismissal passed on 23.04.1996 is not valid in law and the same is liable to be set aside.

10. In the light of the setting aside of the order of dismissal, the proceedings dated 20.07.1996 impugned in W.P.No.11907 of 1996 to the effect that the first petitioner was not entitled for gratuity cannot also be upheld, though the other part of the order relating to recoveries ordered as against the first petitioner including the recovery of sum of Rs.21,200/- towards his part of the liability for the loss of the bus was justified. Having regard to my above conclusions, W.P.No.8457 of 1996 stands allowed and W.P.No.11907 of 1996 is partly allowed, viz., to the extent to which the impugned proceeding dated 20.07.1996 deprived the first petitioner the entitlement of gratuity. In other respects, the order dated 20.07.1996 stands confirmed. In the light of setting aside of the order of dismissal impugned in W.P.No.8457 of 1996, it goes without saying that the first petitioner is entitled for the settlement of all his terminal benefits with 7.5% interest, which is the prevailing rate of bank interest. No costs."

4.In view of the orders passed by this Court, the writ petitioner is entitled for the arrears of Pension, Family Pension and all other consequential monetary benefits.

5.The learned counsel for the writ petitioner states that in

spite of the orders of this Court, the terminal benefits are yet to be settled and the family of the writ petitioner is in penurious circumstances. The representation submitted by the writ petitioner also kept in the cold storage and no actions are taken. Thus, the writ petitioner is constrained to move the present writ petition.

6.This Court is of the considered opinion that husband of the writ petitioner was an employee and attained the age of superannuation and subsequently died. There is no impediment for the respondent to settle the pensionary and terminal benefits due to the husband of the writ petitioner and as well as to pay the family pension as admissible under the Rules. It is unfortunate to state that the respondents have failed to initiate any actions to settle the family pension and other consequential and other monetary benefits due to the writ petitioner for the past many years. Already 23 years lapsed and on account of the inaction of the respondents, the writ petitioners are unable to get her right of Family Pension and other consequential monetary benefits. In view of the fact that there is no impediment for settling the terminal and pensionary benefits due to the deceased husband of the writ petitioner. The respondents are directed to settle all admissible terminal and pensionary benefits due to the husband of the petitioner as well as pay the Family Pension as admissible under the Rules within a period of 12 weeks from the date of receipt of a copy of this order. In respect of belated settlements, the admissible interest as per the Rules and Government orders are to be paid along with the Pension settlement.

7.With this direction, the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Kak

To

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

WEB COPY

2.The Managing Director,
M/s.State Express Transport Corporation Ltd.,
No.2, Pallavan Salai,
Chennai - 600 002

+1cc to Mr.M/S.S.Rajeni Ramadoss, Advocate, S.R.No.43128
+1cc to Mr.d.Soundar Raj, Advocate, S.R.No.42811
+1cc to the Government Pleader, S.R.No.43360

SSD(CO)
CB(04/07/2019)

W.P.No.1268 of 2019



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