



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2019

CORAM:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.1734 of 2015

Minor R.Neha
(Aged 10 years)
Represented by her mother/Guardian
D.Geetha
Wife of Padmanabhan ... Petitioner

Vs.

- 1.The Administrator,
Tamil Nadu State Transport Corporation,
Employees Pension Fund Trust,
Chennai-2.
- 2.The Secretary to the Government,
Transport Department,
Secretariat,
Chennai-600 009.
- 3.The Managing Director,
Tamil Nadu State Transport Corporation
Kumbakonam Limited,
Kumbakonam Division,
Kumbakonam,
Thanjavur District. ... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records from the first respondent in respect of Letter No:29/மீ2/தஅபோகணஒநீபொ 2012-1027 dated 18.01.2014 and quash the same consequently, direct the respondents to sanction family pension to the petitioner who is a minor by name R.Neha till she attains 25 years of age with arrears from the November 2011 onwards.

For Petitioner: Mr.V.Chandrasekar
For R2 : Mr.K.Mu.Muthu
Additional Government Pleader
For R3 : Mr.D.Sivaraman
For R1 : No appearance



ORDER

The order impugned dated 18.01.2014 rejecting the claim of the writ petitioner for grant of family pension is under challenge in the present writ petition.

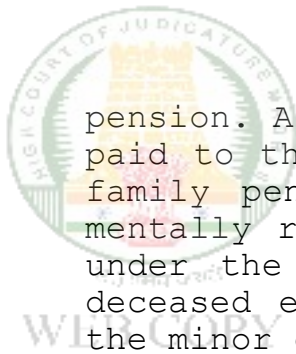
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2.The writ petition is filed by minor or Neha represented by her natural guardian/Mother Srimathi Geetha, W/o. Padmanabhan. The father of the writ petitioner was an employee in the Transport Corporation. The father of the writ petitioner viz., Mr.Rajasekaran died, while he was in service. On account of the death of the first husband of the mother of the writ petitioner, the mother would be entitled to get the family pension under the Rules in force. Accordingly, the mother of the writ petitioner Srimathi D.Geetha was granted with the family pension by the competent authorities. She was receiving the family pension continuously, whileso, the mother of the writ petitioner Srimathi D.Geetha had taken a decision to remarry one Mr.Padmanabhan and accordingly, the second marriage was solemnized between the mother of the writ petitioner as well as Mr.Padmanabhan. The fact regarding the remarriage was intimated to the competent officials as warranted. In view of the solemnization of second marriage by the family pensioner, the competent authorities have stopped the grant of family pension with reference to the Rules in force. Thereafter, the writ petitioner minor or Neha submitted an application to grant family pension till she attained the age of 25 years. The said application was rejected. Challenging the rejection order, the present writ petition is filed.

3.The learned counsel for the writ petitioner states that if the family pension is not granted to the spouse of the deceased employee, then the same must be granted to the minor children upto the age of 25 years. The family pension scheme is to be extended in respect of the minor children, even in a case where the spouse of the deceased employee entered into a contract for second marriage propounding the principles. The learned counsel further states that the writ petitioner is entitled for family pension since the said family pension was stopped for the mother of the writ petitioner.

4.This Court is of the opinion that the family pension is a welfare scheme. Family Pension is a continuation of pension scheme extended to the spouse of the deceased employee on certain terms and conditions. The scheme being a welfare scheme, undoubtedly is to be extended to save the family of the employees, who have retired from service or died, while in service or after retirement. Thus, the family pension are regulated in accordance with the rules and the family pension cannot be granted if any one of the spouse remarriage after the death of the deceased employee.

5.For instance, on retirement, the pension is paid to the employees concerned till his life time he is entitled to get the



pension. After the life time of the pensioner, the family pension is paid to the spouse of the pensioner. The spouse also died then the family pension is paid to the minor children as well as to the mentally retarded persons and the other class of persons notified under the scheme itself. However, in case, if the spouse of the deceased employee got remarry and constituted another family, then the minor children are not entitled for family pension.

6.In the present case on hand, the mother of the writ petitioner was receiving the family pension. Subsequently, she got remarry and constituted a family, thus, the minor children are to be taken care of by the mother of the writ petitioner as well as the husband of the family pensioner Srimathi D.Geetha. Now, the children are taken care of by the family by consisting the mother of the writ petitioner and the second husband Padmanabhan. This being the factum, the scope of extending the family pension by the Court cannot be considered. The scheme of family pension does not permit grant of family pension to the children after the remarriage of the spouse of the deceased employee.

7.This being the scope of the scheme, the writ petitioner has not established any acceptable legal grounds for the purpose of grant of family pension after the remarriage of her mother with Mr.Padmanabhan. Accordingly, this writ petition devoid of merits and stands dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

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Sub Assistant Registrar

To

- 1.The Administrator,
Tamil Nadu State Transport Corporation,
Employees Pension Fund Trust, Chennai-2.
- 2.The Secretary to the Government,
Transport Department, Secretariat,
Chennai-600 009.
- 3.The Managing Director,
Tamil Nadu State Transport Corporation
Kumbakonam Limited, Kumbakonam Division,
Kumbakonam, Thanjavur District.

+1 CC to M/s.V. CHANDRA SEKAR, Advocate SR-83022[F] dated 22/08/2019
+1 CC to M/s.SPL GP (SR-83169[F] dated 22/08/2019)

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