

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.9709 of 2013

And

M.P.No.1 of 2013

S.Bharathi

... Petitioner

Vs.

1.The State of Tamilnadu,
Rep. by its Secretary,
Transport Department,
Secretariat,
Chennai – 600 009.

2.Metropolitan Transport Corporation Ltd.,
(Old Name Pallavan Transport Corpn. Ltd.)
Rep. by its Managing Director,
Pallavan Salai,
Chennai – 600 002.

3.The Commissioner,
Employees Provident Fund,
Regional Office,
No.20, Royapettah High Road,
Chennai – 600 014.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorarified Mandamus to call for the records on the
file of the 1st respondent with regard to the conditions laid down in

para 7(a) in G.O.Ms.No.110, Transport Department dated 06.06.2002 and quash the same and direct the respondents to grant Family Pension and for payment of arrears of pension to the Petitioner from 18.07.1983, the date of the death of the petitioner's husband by following the judgements in W.A.No.1246 of 2009 dated 18.08.2010 in W.P.No.35674 of 2005 dated 20.09.2011 and W.P.No.8941 of 2012 dated 10.04.2012.

For Petitioner : Ms.P.Kirthana Mayuri
for M/s.V.S.Jagadeesan
For Respondent : Mr.S.Thangavel for R1
Special Government Pleader
Mr.K.Moorthy for R2
Mr.T.R.Sundaram for R3

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records on the file of the first respondent with regard to the conditions laid down in para 7(a) in G.O.Ms.No.110, Transport Department dated 06.06.2002 and to quash the same and to direct the respondents to grant Family Pension and for payment of arrears of pension to the Petitioner from 18.07.1983, the date of the death of the petitioner's husband by following the judgements in W.A.No.1246 of 2009 dated 18.08.2010 in

W.P.No.35674 of 2005 dated 20.09.2011 and W.P.No.8941 of 2012 dated 10.04.2012.

2.The case of the petitioner is that the petitioner's husband was appointed as Conductor on 01.08.1963 and was promoted as Checking Inspector and her husband died on 18.07.1983 while he was in service. After the death of the petitioner's husband, pension to be paid to her husband was sanctioned and was paid to the petitioner as life time arrears of pensionary benefits. Hence, the petitioner is entitled to receive family pension with effect from 18.07.1983, however, the same has not yet been sanctioned to the petitioner. The petitioner made representation to the respondents seeking to grant family pension and since there was no response has filed this writ petition.

3.The learned counsel appearing for the petitioner would submit that the issue raised in this writ petition is no longer *res integra*. The Hon'ble Division Bench of this Court has already decided similar issue in the case of **A.Loganayaki Vs. The Secretary to Government, Transport Department and others (W.A.No.1246 of 2009)** on **18.08.2010** and directed the respondent therein to sanction family

pension to the petitioner therein. He would further submit that this Court may extend the same benefit to this petitioner also.

4.The learned Special Government Pleader did not dispute the submissions made by the learned counsel appearing for the petitioner.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.It is useful to extract hereunder the relevant portion of the order of the Hon'ble Division Bench of this Court made in the case of **A.Loganayaki Vs. The Secretary to Government, Transport Department and others (W.A.No.1246 of 2009)** dated 18.08.2010:

"24.Accordingly, we direct the first respondent to sanction the family pension to the appellant with effect from 13.8.2004. 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 13.8.2004, as well as the amount paid to her husband by way of Employer'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 installments."

7.The learned Single Judge of this Court has followed the above said decision in the case of ***B.Jayapradha Vs. The Secretary to Government, Transport Department (W.P.No.6032 of 2007 dated 23.04.2012)*** and has held as follows:

"13.In the light of the above, the writ petition will stand disposed of with the direction similar to one issued by the division bench in W.A.No.1246 of 2009 dated 18.8.2010 and that the petitioner should exercise her option. A liberty is given to the department to withhold the family pension and deduct the amount already paid and grant family pension as per the Pension Rules in case the

petitioner opts for the same. This exercise shall be carried out within a period of three months from the date of receipt of a copy of this order. The petitioner should not further delay in exercising her option in terms of the order passed by the division bench. No costs. Consequently connected miscellaneous petition stands closed."

8.This writ petition stands disposed of with the direction similar to the one issued by the Hon'ble Division Bench of this Court in W.A.No.1246 of 2009 dated 18.08.2010 and such exercise shall be completed as expeditiously as possible.

9.The writ petition is disposed of on the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

21.08.2020

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

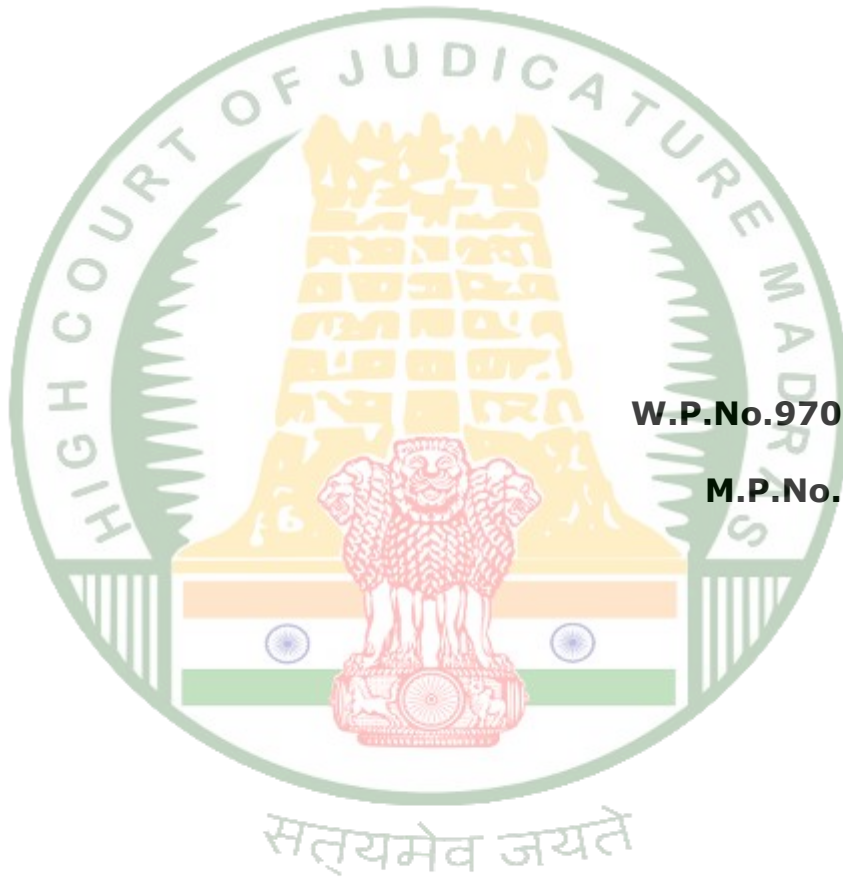
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