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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

W.A.NO.951 OF 2021 AND
C.M.P.NO.5764 OF 2021

1. The District Educational Officer,
Villupuram District,Villupuram.
2. The Headmaster,
Government High School,
Perumangalam, Kallakurichi Taluk,
VillupuramDistrict.

... Appellants

..Vs..

1. G. Irudayamery
2. The Principal Accountant General (A&E)
Tamil Nadu, 361, Anna Salai,
Teynampet,Chennai-600018.

... Respondents

Prayer :

Writ Appeal filed under Clause 15 of the Letters Patent,
against the order, dated 29.11.2018, passed in W.P.No. 25519 of
2016.

Prayer in W.P.No. 25519 of 2016:-

Petition filed under Article 226 of the Constitution of
India, praying for the issue of a Writ of Mandamus, directing
the respondents to sanction and disburse the eligible family
pension with arrears and accrued interest to the petitioner
Mrs.G.Irudayamery on account of the death of the petitioners
husband Mr.Gnanasamy Who was in service under the third
respondent.

For Appellants : Mr.K.R.Tippusultan
Special Government Pleader(Edn)

For Respondents : Mr.R.Prabudoss (R1)
Mr.T.S.Selvamani (R2)



J U D G M E N T

(Judgment of the Court was delivered by S. VAIDYANATHAN, J)

The present Writ Appeal has been preferred against the order passed by the learned Single Judge in W.P.No.25519 of 2016, dated 29.11.2018, by which the Appellants were directed to sanction and disburse the family pension to the writ petitioner from the date of death of her husband along with arrears, within a period of four weeks.

2. It is the case of the Writ Petitioner / First Respondent herein, who is the wife of one Gnanasamy, an Ex-Serviceman that after her husband's retirement from Military service, he joined as Office Assistant in the Second Appellant school and attained superannuation on 30.09.1998 and was sanctioned Civil Pension from 01.10.1998. It is further case of the 1st Respondent herein that her husband died on 30.08.1999 and after his death, 1st Respondent had claimed Family Pension besides getting military Family Pension. Her request was not acceded to on the ground that she had been already receiving family pension in respect of her husband's military service, in the absence of any provision in the Tamil Nadu Pension Rules, 1978, which, according to the 1st Respondent herein, was not justified. The learned Single Judge referred to the similar order dated 12.01.2018 passed in W.P.No.6284 of 2017 and granted the relief to the Writ Petitioner. For the sake of brevity, the relevant portions of the order dated 12.01.2018, are extracted hereunder:

"4. In the aforesaid judgment, when it is held that a pensioner receiving three types of pension, namely, Freedom Fighter's Pension from the Central Government, another Freedom Fighter's Pension from the State Government and Civil Service Pension for having employed in Civil Service cannot be restricted to one pension and if it is restricted, that would amount to deprivation of the national honour bestowed upon the freedom fighters for their supreme sacrifice made to the freedom of our Nation from foreign rule. The same analogy will also equally apply to the present case inasmuch as the petitioner's husband late Gabriel, C. having employed in Indian Army, retired there from and received pension as Ex-serviceman. After his retirement from Army, he



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joined as a driver in the 2nd respondent Tamil Nadu State Transport Corporation and again retired from service w.e.f. 30.10.2003 and for his services rendered with the Transport Corporation, he was also paid with pension by order dated 18.12.2006. Therefore, the petitioner while receiving her family pension from Indian Army, there is no bar for her to receive the pension from the State Transport Corporation for the services rendered by her husband as a driver in the 2nd respondent Transport Corporation.

5. In view of the above settled legal position, the petitioner herein, who is the wife of late C.Gabriel is entitled to get Family Pension from the 2nd respondent as it is nothing to do with the Rule 22 of the Tamil Nadu Transport Corporation Employees Pension Fund Rules.

6. Learned Special Government Pleader appearing for the respondents also having referred to the above two judgments is unable to support the denial of the Family Pension by the 2nd respondent.

7. Therefore, in view of the aforesaid settled legal position, this Court has no hesitation to direct the 2nd respondent to pay the Family Pension to the petitioner, who is the widow of late C.Gabriel, within a period of four weeks from the date of receipt of a copy of this Order. It is made clear that the respondents are directed to release the arrears from the date of death of the petitioner's husband, namely, C.Gabriel on 02.03.2012, failing which, interest at the rate of 10% p.a. will be calculated."

4. Thus, learned Single Judge, considering the aforesaid judgment, held that the writ petitioner is entitled to receive



the pension from the State Government, in addition to getting family pension from Indian Army, thereby allowed the Writ Petition filed by the 1st Respondent herein.

5. We do not find any perversity in the order passed by the learned Single Judge and hence, this Writ Appeal is liable to be dismissed. Accordingly the same is dismissed. The Appellants are directed to sanction and disburse the family pension to the 1st Respondent, within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arr

To

1. Principal Accountant General (A&E)
Tamil Nadu, 361, Anna Salai,
Teynampet, Chennai-600018.
2. The District Educational Officer,
Villupuram District, Villupuram.

+1cc to the Government Pleader, S.R.No.45812
+1cc to Mr.R.Prabudoss, Advocate, S.R.No.45976

W.A.No. 951 of 2021

SR II (CO)
PM/11/10/2021