

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 30.03.2021
CORAM:

The HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8158 of 2021

M.S.Motcham

... Petitioner

-vs-

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

2. Metropolitan Transport Corporation Ltd.,
(Old Pallavan Transport Corporation 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

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 1st respondent to grant Family Pension and for payment of arrears of Family Pension to the petitioner from 06.02.2008, the day following the date of the death of the petitioner's husband by following the Government Order in G.O.Ms.No.387, Finance (Pension) Department, dated 10.12.2019 and in W.P.No.412 of 2020, dated 09.01.2020.

For Petitioner : Mr.V.S.Jagadeesan

For Respondents: Mr.P.V.Selvakumar
Additional Government Pleader
Mr.K.Moorthy (for R2)

O R D E R

This Writ petition is filed, seeking a direction to the 1st respondent to grant Family Pension and arrears of Family Pension to the petitioner from 06.02.2008, the day following the date of the death of the petitioner's husband by following the

Government Order in G.O.Ms.No.387, Finance (Pension) Department, dated 10.12.2019 and in W.P.No.412 of 2020, dated 09.01.2020.

2. Mr.P.V.Selvakumar, learned Additional Government Pleader takes notice for Respondents. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. The brief facts of the case are that the petitioner who is the wife of the deceased employee of the respondent Transport Corporation, claims family pension before the 1st respondent. According to the petitioner, the husband of the petitioner was drawing pension till 05.02.2008, i.e, the date of his demise and consequently, being a legal heir of the deceased pensioner, she is entitled to receive Family Pension with effect from 06.02.2008. In this connection, she made representation before the 1st respondent on 20.01.2020. As there was no response on the representation, the petitioner is before this Court by filing the present Writ petition with the aforesaid relief.

4. The Learned counsel submitted that it would suffice, if the said representation made by the petitioner is directed to be considered and disposed of by the 1st respondent on merits.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the 1st respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 1st respondents herein to consider the representation preferred by the petitioner dated 20.01.2020, if not disposed of earlier, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 1st respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 20.01.2020 and this order, to the 1st respondent forthwith;

v) The 1st respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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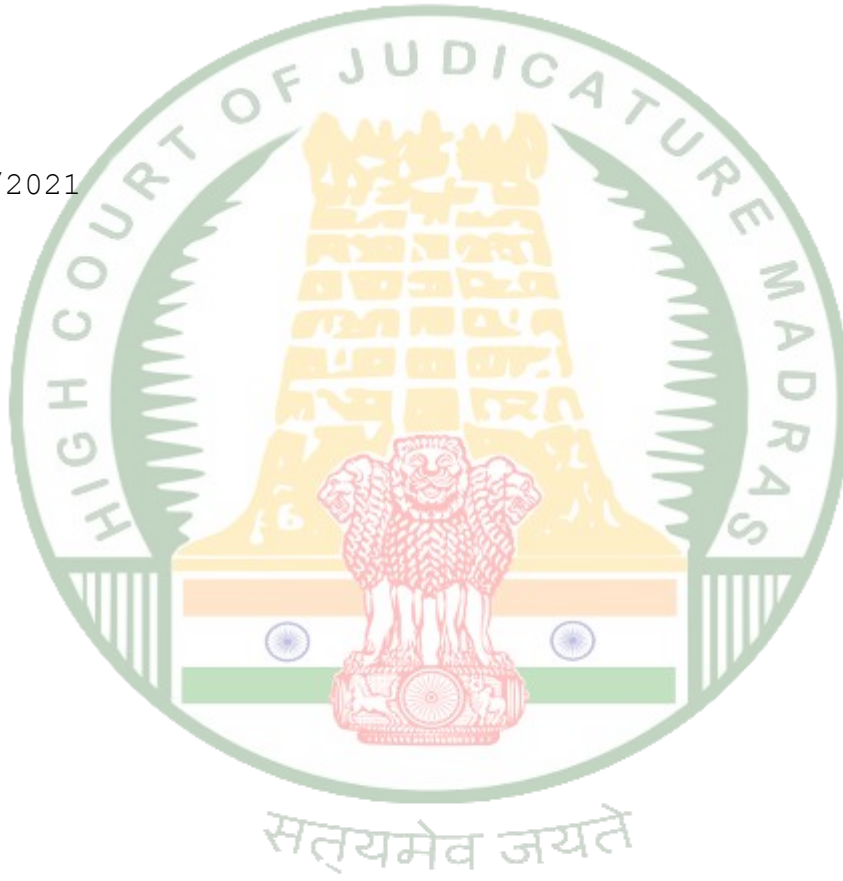
To

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+cc to M/s.VS.Jagadeesan Advocate Sr.20745
+cc to Govt Pleader Sr.21045

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PL(CO)
baf 11/05/2021



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