



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD)No.22598 of 2017

and

W.M.P (MD)No.18884 of 2017

WEB COPY

S.Pandidevi

... Petitioner

Vs.

- 1.The Managing Director,
Tamil Nadu State Road Transport Corporation,
Madurai Division, Bye Pass Road,
Madurai.
- 2.The General Manager,
Tamil Nadu State Road Transport Corporation,
Madurai Division, Dindigul Region,
Bye Pass Road, Dindigul.
- 3.The Administrator,
Tamil Nadu State Transport Corporation Pension Fund Trust,
Thiruvalluvar House,
Pallavan Salai,
Chennai-2.

4.K.Malliga

5.S.Sasireka

... Respondents

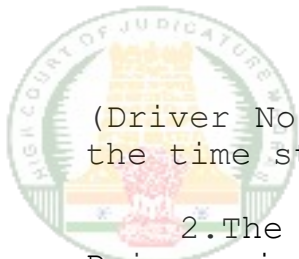
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first to third respondents to pay the family pension every month exclusively to the petitioner as per Rule 20(2)(a) of the Tamil Nadu State Transport Corporation Employees Pension Fund Trust Rules from the date of death of her deceased husband namely Saravanamuthu, (Driver No.52289) with interest and arrears payable thereon, within the time stipulated by this Court.

For Petitioner	: Mr.J.Lawrance
For R1 to R3	: Mr.J.Senthil Kumaraiah Standing Counsel,
For R4 & R5	: Mr.R.Thangapandian

ORDER

This writ petition is filed by the petitioner for a direction to the respondents 1 to 3 to pay the family pension every month exclusively to the petitioner, as per Rule 20(2)(a) of the Tamil Nadu State Transport Corporation Employees Pension Fund Trust Rules, from the date of death of her deceased husband, viz., Saravanamuthu,

<https://hcservices.ecourts.gov.in/hcservices/>

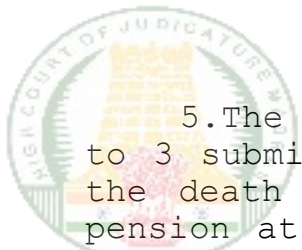


(Driver No.52289) with interest and arrears payable thereon, within the time stipulated by this Court.

2.The case of the petitioner is that her husband worked as a Driver in the respondents Corporation in the year 1999. On 13.01.2012, due to heart attack, the petitioner's husband died, leaving behind the petitioner and three minor children as his legal heirs. After the death of the petitioner's husband, the service benefits were not paid to the petitioner. Due to financial crisis, the petitioner has made an application seeking for compassionate appointment for herself, on 18.12.2013. Further, the petitioner has averred that her husband married the fourth respondent, as a first wife and out of the said first marriage, he was blessed with one daughter, who is the fifth respondent herein. Due to matrimonial dispute, the petitioner's husband filed a divorce petition in H.M.O.P.No.114 of 2002 before the Sub Court, Dindigul. The said HMOP was allowed on 25.02.2013, by an ex-parte order, since the fourth respondent did not appear before the Court. In such circumstances, the petitioner's husband married the petitioner as a second wife, on 03.03.2004. After the death of the petitioner's husband, the petitioner has made an application to the respondents seeking compassionate appointment and also for payment of service benefits, on 18.12.2013 and 22.01.2014. The fourth respondent has objected for the settlement of service benefits in favour of the petitioner and also demanded for compassionate appointment.

3.Further, the first and second respondents advised the petitioner to obtain the Legal Heirship Certificate from the competent Civil Court and hence, the petitioner has filed a Civil Suit before the District Munsif Court, Nilakkottai, in O.S.No.199 of 2012 seeking issuance of Legal Heirship Certificate in her favour and also including the names of her three children. The District Munsif Court has referred the matter to the Lok Adalat and the matter was settled by way of compromise arrived at between them, pursuant to which, the petitioner got Legal Heirship Certificate by including the name of the fifth respondent and produced the same before the authorities. Thereafter, the entire amount was settled between the petitioner as well as the fifth respondent. After the demise of the petitioner's husband, the respondents 1 to 3 did not pay the family pension to the petitioner, even though the petitioner's husband is eligible for pension, as per Rule 20(2)(a) of the Tamil Nadu State Transport Corporation Employees Pension Fund Trust Rules(hereinafter referred to 'the Rule'). In order to receive the entire family pension, the present writ petition is filed.

4.The learned counsel appearing for the petitioner submitted that the petitioner is entitled to receive full pension, since the fifth respondent is in well place and her mother is working as a Nurse in the Government Hospital. Whereas, the petitioner is suffering from financial hardship with three children. Hence, he



5.The learned Standing Counsel appearing for the respondents 1 to 3 submitted that as per Rule 20(2)(a) of the said Rules, after the death of the spouse, the first child is eligible for family pension at the rate of 50% upto the period till he or she attains the age of 25 in the case of male child and family pension is admissible till he attains the age of 25 years or getting employment, whichever is earlier and in the case of female child, family pension is eligible till she attains the age of 25 or the date of her marriage, whichever is earlier. Further, the learned Standing Counsel submitted that due to some objections raised by the fourth respondent, the respondents 1 to 3 did not disburse the monthly pension. Thereafter, the respondents 1 to 3 have disbursed the monthly pension only in the year 2017 stating that half of the monthly pension is payable to the fifth respondent. Therefore, the petitioner was entitled for 50% of family pension and remaining 50% was settled in favour of the fifth respondent. Hence, he prays for dismissal of the present writ petition.

6.The learned counsel appearing for the fourth and fifth respondents had adopted the arguments of the learned Standing Counsel for the respondents 1 to 3.

7.The issue involved in the present case is whether the petitioner is entitled to receive full pension or not?.

8.For better appreciation, Rule 20(2)(a) of Tamil Nadu State Transport Corporation Employees Pension Fund Trust Rules, is extracted hereunder:

"a)Family pension shall be admissible to the family of the member from the date of following the date of death of a member, while in service at the rate of 30 percent of basic pay last drawn provided that at least one year of continuous service has been rendered by the Member and the contribution for the period has been paid into the fund, till lifetime of the spouse (Widow/Widower)

b)After the death of the spouse, the first child is eligible for family pension at the rate of 50% upto the period till he or she attains the age of 25 in the case of male child, family pension is admissible till he attains the age of 25 years or getting employment, whichever is earlier and in the case of female child, family pension is eligible till she attains the age of 25 or the date of her marriage whichever is earlier."

9.On a perusal of the said Rule, it is seen that the first child of the family is entitled to receive pension at the rate of 50% upto the age of 25 or getting employment, whichever is earlier.



10. In view of the above, the prayer sought for in the Writ Petition cannot be considered. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

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Sub Assistant Registrar(CS)

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To

1. The Managing Director,
Tamil Nadu State Road Transport Corporation,
Madurai Division, Bye Pass Road,
Madurai.

2. The General Manager,
Tamil Nadu State Road Transport Corporation,
Madurai Division, Dindigul Region,
Bye Pass Road, Dindigul.

+1 CC to M/s.R.THANGA PANDIAN, Advocate (SR-12630[F] dated 22/03/2021)

+1 CC to M/s.J.LAWRANCE, Advocate (SR-12796[F] dated 22/03/2021)

W.P. (MD) No.22598 of 2017
19.03.2021

VR(CO)

KB(24.05.2021) 4P 5C