



WEB COPY



W.P.No.15386 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.15386 of 2018

P.Radha

... Petitioner

-Vs-

The Assistant Manager (Pension),
Tamil Nadu State Transport Corporation,
No.12, Ramakrishna Road,
Salem-7.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus, directing the respondent to pay monthly pension of Rs.14290/- on the death of the husband of the petitioner namely Ramachandran along with its arrears by considering the representation dated 09.04.2018 within an appropriate time.

For Petitioner : Mr.T.Mohan Raja
for R.Nalliappan

For Respondent : Mr.R.Babu



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ORDER

The writ of mandamus has been filed to direct the respondents to pay the monthly pension of Rs.14,290/- on the death of her husband of the petitioner, late M.Ramachandran, along with the arrears, by considering the representation submitted by the petitioner on 09.04.2018.

2. The petitioner states that her husband, late M.Ramachandran was appointed as Technical Assistant on 05.11.1987 in Tamil Nadu States Transport Corporation (Salam Division I). The husband of the petitioner died on 28.07.2011. Subsequently, the petitioner submitted an application for granting family pension.

3. Initially, a sum of Rs.14,290/- was approved towards the family pension. The said amount was credited to the account of the petitioner in November 2011. Subsequently, from the next month onwards ie., from December 2011 onwards, only a sum of Rs.6,525/- was credited and therefore, the petitioner submitted a representation stating that her family pension was reduced without any valid reason. The authorities competent had not taken any action and therefore, the petitioner immediately has chosen to file the present writ petition.



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4. The learned counsel for the respondent furnished the copy of the documents to establish that the writ petitioner is employed as a Steno-typist in Judicial Magistrate Court, Attur District, and is drawing salary. The petitioner was drawing emoluments including Dearness allowance, House Rent allowance, Medical allowance, Special allowance, and grade pay and therefore, as per the Government Order, she is not eligible to get Dearness allowance on family pension. The document produced by the respondent reveals that the petitioner is employed in Judicial Magistrate Court, Attur, as Steno-typist and thus, she is not eligible for Dearness allowance along with the family pension.

In this regard the learned counsel for the respondent relied on to the Government Order issued in G.O.Ms.No.191, Finance (pension) Department, dated 16.03.1996, which reads as under:

“The Government has examined the question of allowing Dearness Allowance on family pension to the family pensioners of State Government who are employed and decided not to allow Dearness Allowance on family pension in the case of family pensioners who are employed. Accordingly, they direct that Dearness Allowance on family Pension shall be suspended if a family pensioner is employed in State or Central Government or a



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Government Undertaking or a Corporation or an autonomous body or a local fund on a post on fixed pay or on time scale of pay where Dearness Allowance on pay is allowed. In all other cases of employment, where no Dearness Allowance is allowed, in addition to remuneration, Dearness Allowance on family pension shall be allowed. These orders shall take effect from the date of this order. In the case of those who were employed prior to the date of this order, but continue to be in employment on the date of this order, Dearness Allowance of family pension whenever not admissible shall be suspended with effect from the date of this order.”

5. The Government examined the question of allowing Dearness allowance on family pension to the family pensioners of the State Government, who all are employed and accordingly decided not to allow Dearness allowance on family pension, in the case of the family pensioners who all are employed. This being the decision taken by the Government, not to grant two Dearness allowances along with the salary and also with the family pension, the respondents have paid the family pension deducting the Dearness allowance. Initially, it was erroneously



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fixed along with the Dearness allowance, since the particulars regarding the employment of the writ petitioner were not available to the respondents. Further, the petitioner had not disclosed her employment at the time of sanctioning of the family pension. After knowing about the fact that the petitioner is employed as Steno-typist in the Judicial Magistrate Court, Attur, the respondents have immediately initiated action in accordance with the Government order and deducted the Dearness allowance from the family pension, and accordingly, the monthly family pension is being disbursed to the petitioner regularly.

6. This being the facts and circumstances, the petitioner has not established any acceptable ground for the purpose of granting the relief and therefore the writ petitioner is devoid of merits and thus, stands **dismissed**. There shall be no order as to costs.

Index : Yes
Speaking order
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08.11.2022

To

The Assistant Manager (Pension),
Tamil Nadu State Transport Corporation,
No.12, Ramakrishna Road, Salem-7.



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S.M.SUBRAMANIAM.J.,

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