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W.P.(MD)No.3281 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.3281 of 2015

and

M.P.(MD)No.1 of 2015

C.Vijaya

... Petitioner

vs.

- 1.The Government of Tamil Nadu,
represented by its Principal Secretary
to Government and Chairman of
Transport Corporations,
Fort St.George, Chennai-9.
- 2.The Tamil Nadu State Transport Corporations
Madurai Limited,
represented by its Managing Director,
Bye Pass Road, Madurai-10.
- 3.The Tamil Nadu State Transport Corporations
Employees Pension Fund Trust,
represented by its Administrator,
Thiruvalluvar House,
Pallavan Salai, Chennai-2.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 3rd respondent in Letter No. 44/B2/Tha.Aa.Po.Ka [Vu.O.Ni](#).Po/2014-931, dated 30.10.2014, to quash the same and consequently, to direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation Employees Pension Fund Rules from the date of death of the petitioner's husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest to award costs.

For Petitioner	: Mr.A.Rahul
For R1	: Mr.P.Thambidurai Government Advocate
For R2	: Mr.S.C.Herold Singh
For R3	: Mr.A.P.Muthu Pandian

ORDER

This writ petition is filed for issuance of writ of Certiorarified Mandamus, to quash the impugned order passed by the 3rd respondent, dated 30.10.2014 and consequently, to direct the respondents forthwith to pay family pension to the petitioner under the provisions of Tamil Nadu State Transport Corporation



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Employees Pension Fund Rules from the date of death of the petitioner's husband without reference to defence family pension being received by the petitioner, with arrears together with reasonable rate of interest to award costs.

2. The brief facts of the case are that the petitioner's husband was serving in Indian Army. After his retirement, he joined as fresh entrant with effect 1978. He has served in 2nd respondent Corporation for 22 years and promoted as selection grade Driver. He attained superannuation and retired on 31.03.2000. From the post of selection grade Driver, the petitioner's husband had received pension from the Indian Army as well as for the service rendered in the respondent Corporation. The petitioner's husband died on 31.05.2014. After the demise of the petitioner's husband, the respondents stopped the pension that was being received by the deceased employee. Aggrieved over the same, the petitioner submitted a representation seeking to pay family pension in terms of the rules. By the impugned order, the 3rd respondent rejected the request by citing the Government letter, dated 23.08.2004.



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3. Pending this writ petition, the Government of Tamil Nadu has considered the cases of the ex-servicemen and passed G.O.Ms.No.290, Public (Ex-Servicemen) Department, dated 05.04.2017, wherein it has been stated that the family of the deceased ex-serviceman is entitled to family pension from civil service also. However, the date of effect was given as 02.09.2016. Therefore, this Court is of the considered opinion that the petitioner is entitled to family pension.

4. At this juncture, the learned Counsel for the petitioner submitted that the minimum family pension that is disbursed by the Government is Rs.7,850/-. Moreover, the respondents have not included the dearness allowance component in the family pension. The learned Counsels for the respondents submitted that the issue of including dearness allowance for the second service was considered and the Honourable Division Bench of this Court has declined the dearness allowance component for the second pension. However, the petitioner submitted that the petitioner is entitled to minimum pension. Since it is a separate cause of action, the petitioner is at liberty to submit a fresh representation to the 1st



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To

The Principal Secretary to Government
and Chairman of Transport Corporations,
Government of Tamil Nadu,
Fort St.George, Chennai-9.

S.SRIMATHY, J

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