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W.P.(MD)No.5963 of 2017

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.5963 of 2017

and

W.M.P.(MD)No.4711 of 2017

S.Margaret

... Petitioner

VS.

- 1.The Tamil Nadu State Transport Corporation (Kumbakonam) Limited, represented by its Managing Director, 27, New Railway Station Road, Kumbakonam.
- 2.The Government of Tamil Nadu, represented by its Principal Secretary to Government and Chairman of Transport Corporations, Fort St.George, Chennai-9.
- 3.The Tamil Nadu State Transport Corporations Employees Pension Fund Trust, represented by its Administrator, Thiruvalluvar House, Pallavan Salai, Chennai-2.

... Respondents



W.P.(MD)No.5963 of 2017

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, 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 petitioner, with arrears together with reasonable rate of interest and to award costs.

For Petitioner	: Mr.A.Rahul
For R1	: Mr.D.Sivaraman
For R2	: Mr.P.Thambidurai
	Government Advocate
For R3	: Mr.A.P.Muthu Pandian

ORDER

This writ petition is filed for issuance of writ of Mandamus, 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 and to award costs.



W.P.(MD)No.5963 of 2017

WEB COPY

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 1991. He has served in respondent Corporation for 17 years. He attained superannuation and retired on 31.05.2008. 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 29.10.2015. 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 representation, dated 21.04.2016, seeking to pay family pension in terms of the rules.

3. Pending this writ petition, the Government of Tamil Nadu has considered the cases of the ex-servicemen who served in other civil service 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



W.P.(MD)No.5963 of 2017

WEB COPY

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 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 by the Honourable Division Bench of this Court and the Honourable Division Bench of this Court has declined the dearness allowance component for the second pension. Therefore this Court is of the considered opinion that the petitioner is not entitled to the dearness allowance for the second pension.

5. The 1st respondent shall transfer the eligible amount to the pension trust and thereafter disburse the family pension. It is clarified that the petitioner is entitled to arrears also from the applicable date without interest. The respondents shall implement this order within a period of 8 weeks from the date of receipt of a



W.P.(MD)No.5963 of 2017

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copy of this order.

6.With the above said observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes

16.11.2022

Tmg

To

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



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W.P.(MD)No.5963 of 2017

S.SRIMATHY, J

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W.P.(MD)No.5963 of 2017

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