IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.17785 of 2015

S.Raja Lakshmi ... Petitioner

-Vs-

1.The Secretary to Government of Tamil Nadu,
Represented by the Deputy Secretary to Government,
Transport (TBC) Department,
Secretariat, Chennai – 600 009.

2.The General Manager,
State Express Transport Corporation,
Tamil Nadu Limited,
Tiruvalluvar House,
No.2, Pallavan Salai,
Chennai – 600 002.

3.The Principal Accountant General (A & E),
Tamil Nadu,
Chennai – 600 018. ... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to the orders in (1) G.O (3D) No.37, Transport (TBC) Department, dated 18.10.2012 of the first respondent and (2) Letter No.28042/C4/TNSTC/14, dated 15.07.2014 of the second respondent to quash the same to the limited extent of sanctioning the monthly family pension etc., to the petitioner with effect from 28.11.2011 instead of 28.02.2000, the next date of the death of the pensioner, namely, M.R.Krishnan (who died on 27.07.2000), the father of the petitioner and to issue consequential directions to the respondents 1 and 2 to submit proposals to the 3rd respondent, accordingly for authorizing family pension to the petitioner from 27.02.2000 and pay the arrears with compound interest at 12% per annum and to disburse the family pension regularly hereafter.

For Petitioner	:	Mr.S.Balakrishnan for Mr.M.Ravi
For R1	:	Mr.T.M.Rajangam Government Advocate
For R2	:	Mr.K.Kathiresan
For R3	:	No Appearance

ORDER

This Writ petition has been filed challenging the order passed by the first respondent dated 18.10.2012, thereby granted family pension with effect from 28.11.2011 and the order passed by the second respondent dated 15.07.2014, thereby rejected the claim of the petitioner for granting family pension from the date of her father's demise viz., 27.02.2000.

2. Heard the learned counsel for the petitioner, the learned Government Advocate for the first respondent and the learned counsel for the second respondent and perused the materials available on record.

3. The petitioner is the only daughter of her father one M.R.Krishnan, who was an employee in the second respondent Department as Traffic Inspector. He had retired from his service on 16.08.1976 on attainment of superannuation. Thereafter, he was granted pension and he died on 27.02.2000. The petitioner's mother pre-deceased her father on 27.01.1997. Though she got married, her husband died on 27.08.1990. After the demise of her husband, she was dependent on her parents. That apart, she is the only legal heir to her father and mother. After the demise of her father, she applied for family pension. As per the order passed in G.O.(3D)No.37 Transport (TBC) Department, dated 18.10.2012, she was accorded family pension and she is drawing family pension only with effect from 28.11.2011.

4. A perusal of the impugned order revealed that the first respondent referred to G.O.Ms.No.325 Finance (Pension) Department, dated 28.11.2011 and accorded family pension only with effect from 28.11.2011. Aggrieved by the same, the petitioner submitted a representation seeking family pension from

the date of her father's demise, viz., 27.02.2000, by referring the earlier Government Orders. However, it was rejected by the second respondent by the impugned order dated 15.07.2014.

5. Though this writ petition is pending from the year 2015, the respondents did not file any counter.

6. The learned counsel for the respondents would submit that as per G.O.Ms.No.325 Finance (Pension) Department, dated 28.11.2011, the petitioner is entitled for family pension only with effect from 28.11.2011. Therefore, the subsequent claim of the petitioner was also rightly rejected by the second respondent.

7. A perusal of G.O.Ms.No.327, dated 30.08.2001 revealed that the family pension shall be sanctioned to the parents and widowed/divorced daughters to the following conditions:

> *" (i) The parents were wholly dependent on the Government servant when he/she was alive.*
>
> *(ii) The Government servant has not left behind a widow/widower, eligible son or daughter or a widowed/divorced daughter who will have a prior claim to family pension in the order indicated.*
>
> *(iii) The income criteria in respect of the parents and*

widowed/divorced daughters will be Rs.2,550/- per month. The family pension shall be at 30% of basic pay of the deceased Government Servant subject to a minimum of Rs.1,275/- per month. They will also product an annul certificate to the effect that their earning is not more than Rs.2,550/0 per month."

8. It is further clarified that in the case of sons/daughters including widowed/divorced daughters, family pension shall be sanctioned till he/she attains the age of 25 years or up to the date of his/her marriage/re-marriage whichever is earlier. It is further clarified that the family pension in respect of sons/daughters including widowed/divorced daughters shall be discontinued/not admissible when the eligible son/daughter starts earning of Rs.2,550/- from employment in State or Central Government or Government undertaking or Corporation or Autonomous Body or local fund or private employment or self-employment etc.

9. Subsequently, Board Proceedings No.63 dated 14.06.2004 was issued in pursuant to the G.O.Ms.No.327 Finance (Pension) Department dated 30.08.2001 by Tamil Nadu Water Supply and Drainage Board and directed sanction of family pension to parents and disabled divorced daughters/widowed disabled daughters to be adopted by Board in the same terms and conditions stipulated in the above said Government Orders. However, by the subsequent G.O.(3D).No.37 dated 18.10.2012, sanctioned family pension to the petitioner

only with effect from 28.11.2011 as per G.O.Ms.No.325 Finance (Pension) Department, dated 28.11.2011.

10. As stated supra, G.O.Ms.No.325 Finance (Pension) Department, dated 28.11.2011 was issued with effect from the date of the Government Order. As per G.O.Ms.No.327 Finance (Pension) Department dated 30.08.2001 and also as per Rule 49 of the Tamil Nadu Pension Rules, the petitioner is entitled for family pension from the date of her father's demise, viz., 27.02.2000. Further, when the petitioner was sanctioned family pension, on the demise of her father, she is also entitled for family pension from the date of demise of her father viz., 27.02.2000.

11. In this regard, the principles laid down by the Hon'ble Supreme Court of India in the case of ***D.S.Nakara Vs Union of India*** that the specification of a cut off date dividing the retirees into two classes will be violative of Articles 14 and 16 of the Constitution of India has to be borne in mind.

12. In view of the above, the impugned orders passed by the first respondent insofar as it relates to limited extent of sanctioning the monthly family pension with effect from 28.11.2011 instead of 28.02.2000 and the order

passed by the second respondent dated 15.07.2014 are hereby quashed. The respondents 1 and 2 are directed to pass appropriate order and send a proposal to the third respondent to grant family pension to the petitioner from the date of demise the petitioner's father viz, 27.02.2000 and pay the arrears with interest at the rate of 12% per annum, within a period of twelve weeks from the date of receipt of a copy of this order.

13. Accordingly, this writ petition stands allowed. There shall be no order as to costs.

26.09.2023

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
mn

G.K.ILANTHIRAIYAN, J.

mn

To

1.The Secretary to Government of Tamil Nadu,
Represented by the Deputy Secretary to Government,
Transport (TBC) Department,
Secretariat, Chennai – 600 009.

2.The General Manager,
State Express Transport Corporation
Tamil Nadu Limited,
Tiruvalluvar House,
No.2, Pallavan Salai,
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3.The Principal Accountant General (A & E),
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Chennai – 600 018.

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