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W.P.No.15884 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No.15884 of 2020

1.V.Ponmathi
2.A.Viswanathan

... Petitioners

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary to Government,
Transport Department,
Secretariat, Chennai – 600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem Division,
No.12, Ramakrishna Road,
Post Box No.713,
Salem – 636 007.

3.The General Manager,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem Division,
No.12, Ramakrishna Road,
Post Box No.713,
Salem – 636 007.

4.The Administrator,
Tamil Nadu State Transport
Corporation Employees Pension Fund Trust,
Thiruvalluvar House,
Pallavan Salai,
Chennai – 600 002.

... Respondents



W.P.No.15884 of 2020

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to include the 1st petitioner as legal heir in the Pension Payment Order (PPO) of the 2nd petitioner, who is now getting the Pension from the respondents 2 to 4.

For Petitioners : Mr.M.Dinesh
for Mr.N.Sudhagar Nagaraj

For Respondents : Mr.V.Ramesh, for R1
Government Advocate
Mr.R.Babu, for RR2 & 3
Standing Counsel
Mr.C.S.K.Sathish, for R4
Standing Counsel

ORDER

This Writ Petition has been filed seeking a writ of mandamus to direct the respondents to include the first respondent as legal heir in the Pension Payment Order (PPO) of the second petitioner, who is now getting pension from the respondents 2 and 3.

2. Heard, Mr.M.Dinesh, the learned counsel for the petitioners and Mr.V.Ramesh, learned Government Advocate for R1, Mr.R.Babu, learned Standing Counsel for respondents 2 and 3 and Mr.C.S.K.Sathish, learned Standing Counsel for R4 and perused the materials available on record.



3.

The case of the petitioners is that the first petitioner is the second wife of the second petitioner. The second petitioner joined in the second and third respondents Corporation on 01.01.1984 and retired from service as Selection Grade - Senior Conductor on 30.06.2013. One V.Parimaladevi is the first wife of the second petitioner and she died on 17.02.1992 due to breast cancer, leaving behind the second petitioner and son, by name V.Gowrisankar. After the demise of V.Parimaladevi, the second petitioner married the first petitioner on 23.06.1993 before the elders. They were blessed with one female child namely V.Subashree. For some years, they lived together happily and thereafter, some family dispute arose between them. Later, the second petitioner has deserted the first petitioner and her child from the month of March 2005. As the first petitioner has no sufficient means to meet out their daily and basic necessities, she filed a suit in P.O.P. No.2 of 2013 in unnumbered O.S. /2013 before the learned Subordinate Judge, Sankagiri to permit the first petitioner and her daughter to file the suit in forma pauperis as indigent persons to direct the second petitioner to pay maintenance to them. The second petitioner filed counter in I.A.No.5 of 2013 in P.O.P. No.2 of 2013. In the meanwhile, the second petitioner retired from service on 30.06.2013, at that time of retirement, the second petitioner did not include the name of the first petitioner in the Pension Payment Order as legal heir. Subsequently, as per advice of family elders, the first and second petitioners accepted to live together. On 22.04.2018, they have



entered mutual compromise agreement between themselves for living together.

Based on the terms and conditions of the agreement, both parties settled the issue and to that effect an award was passed in Lok Adalat on 22.04.2018. Thereafter, on 30.01.2020, the second petitioner has approached the second and third respondents to include the name of the first petitioner in the Pension Payment Order and also handed over the Lok Adalat award copy. They submitted a detailed representation on 24.09.2020 to include the name of the first petitioner in the Pension Payment Order of the second petitioner. As there is no action has been taken by the respondents till date, the petitioners constrained to file this writ petition.

4. In the counter affidavit filed by the second respondent, it is averred that the second petitioner was appointed in their Corporation as Conductor on 31.08.1983 and he had attained superannuation and retired from service on 30.06.2013. The second petitioner has executed a bond on 11.07.2013 by which he had requested the Corporation not to disburse the terminal benefits such as, pension, gratuity e.t.c., to the first petitioner and her daughter. It is further averred that after a lapse of 7 years, the second petitioner had now requested the Corporation to nominate the first petitioner, who is the second wife of the second petitioner and their daughter Subashree as legal heirs. It is further averred that the claim of the petitioners is not bonafide one and it is not sustainable either in law or on facts. It is also stated that



the petitioners have not submitted the Lok Adalat order to the respondents so far.

Finally, it is prayed by the second respondent to dismiss the writ petition on the ground of delay and laches.

5. Having heard the submissions of the respective counsels and upon careful perusal of the materials available on record, it is an admitted fact that the second petitioner worked as Conductor in the second respondent Corporation and retired from service on 30.06.2013 as Selection Grade – Senior Conductor. It is also an admitted fact that the first wife of the second petitioner i.e., V.Parimaladevi died on 17.02.1992 due to breast cancer. It is also an admitted fact that the second petitioner got married the first petitioner on 23.06.1993 and after some period, some dispute arose between them and they are leaving separately. It is also an admitted fact that the first petitioner and second petitioner entered into terms of settlement in P.O.P. No.2 of 2013 before the Lok Adalat on 22.04.2018 and to that effect, an award is passed by the Lok Adalat.

6. Learned counsel for the petitioner submits that along with the Lok Adalat award copy, the second petitioner submitted a representation on 24.09.2020 to the respondents to include the name of the first petitioner in the Pension Payment Order. But, it is the contention of the learned counsel for the second respondent that



the petitioners never submitted the copy of the Lok Adalat award.

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7. Considering the facts and circumstances of the case, it appears that for the reason that the Lok Adalat award copy is not furnished to the second respondent, the request of the petitioners is not considered to include the name of the first petitioner in the PPO order. If, the Lok Adalat award copy is furnished to them, now, by the petitioners, the issue will be settled.

8. But, in the counter filed by the second respondent, it is averred that the claim of the petitioners are not bonafide and it is not sustainable either in law or facts. This Court is unable to accept the contention of the second respondent on this aspect. The second petitioner has executed a bond on 11.07.2013 and requested the Corporation not to disburse the terminal benefits to the first petitioner, in view of the dispute arose between them at that time. But, subsequently, they settled their dispute as per the advice of the elders and now, they are living together. They settled all dispute in terms of the settlement and to that effect, the Lok Adalat passed an award on 22.04.2018. In the light of the award passed by the Lok Adalat dated 22.04.2018, it is clear that the first and second petitioners are living together after settling all dispute arose between them.



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9. Under these circumstances, the request of the second petitioner to include the name of the first petitioner in the Pension Payment Order has to be considered by the second respondent without raising unnecessary issues. It is the legitimate right of the second petitioner to request the respondents to include the name of the first petitioner in the Pension Payment Order, as first petitioner is the legally wedded wife of the second petitioner. As such, in our considered view, the action of the respondents 2 and 3 in not considering the request of the petitioners is unjust and unsustainable.

10. Accordingly, for the reasons stated above, this Writ Petition is disposed of with the following directions:

(i). The petitioners shall furnish a copy of the order of the Lok Adalat dated 22.04.2018, within a period of one week from today to the respondent No.2.

(ii). The respondents 2 and 3 are directed to consider the representation dated 24.09.2020 of the petitioners to include the name of the first petitioner in the Pension Payment Order, within a period of four weeks from the date of receipt of copy of this order.

11. There shall be no order as to costs.

13.06.2023

Index :Yes/No

Neutral Citation :Yes/No

AT

Note: Issue order copy on 16.06.2023

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BATTU DEVANAND, J.

AT

To

1.The Secretary to Government,
Government of Tamil Nadu,
Transport Department, Secretariat, Chennai – 600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Salem Division, No.12, Ramakrishna Road,
Post Box No.713, Salem – 636 007.

3.The General Manager,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
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Tamil Nadu State Transport
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