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W.P.No.10942 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2023

CORAM

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

W.P.No.10942 of 2014

and

M.P.No.1 of 2014

J.Dennis

... Petitioner

-Vs-

1.The Managing Director,
Metropolitan Transport Corporation (MTC),
Thiruvalluvar Illam, No.2, Pallavan Salai,
Chennai – 600 002.

2.The Administrator,
Tamil Nadu State Transport Corporation,
Employees' Pension Fund Trust,
Thiruvalluvar Illam, No.2, Pallavan Salai,
Chennai – 600 002.

3.The Secretary to Government,
Transport Department,
Secretariat, Chennai – 600 009.

4.The Secretary to Government,
Finance Department, Secretariat,
Chennai – 600 009.
(R4 impleaded vide Order dated 16.03.2021
made in W.M.P.No.16934 of 2019
in W.P.No.10942 of 2014)

... Respondents



W.P.No.10942 of 2014

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondents to sanction the Dearness Allowance on the family pension sanctioned to the petitioner from 22.12.2012 based on the orders issued by the Government in G.O (Ms.)No.49 Finance (Pension) Department, dated 11.02.2009 and to stop the recovery of commutation of pension sanctioned to the deceased from the Family Pension sanctioned to the petitioner.

For Petitioner : Mr.T.Ranganathan

For R1 : Mr.R.Balaji
Standing Counsel

For R2 : Mr.C.S.K.Sathish
Standing Counsel

For R3 and R4 : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER

This Writ Petition has been filed for direction directing the respondents to sanction the Dearness Allowance on the family pension sanctioned to the petitioner from 22.12.2012 based on the orders issued by the Government in G.O (Ms.)No.49 Finance (Pension) Department, dated 11.02.2009 and to stop the recovery of commutation of pension sanctioned to the deceased from the Family Pension sanctioned to the petitioner.



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WEB COPY 2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The wife of the petitioner had worked as Superintendent in the Metropolitan Transport Corporation and retired on 31.05.2012. She had rendered 30 years of service. Thereafter, she died on 21.12.2012. After her demise, the petitioner, being the husband, was sanctioned family pension. However, the Dearness Allowance on family pension in accordance with G.O.Ms.No.49 Finance (Pension) Department dated 11.02.2009 has not been sanctioned to the petitioner. That apart, the second respondent also recovered the commutation of pension which was granted in favour of the petitioner's wife. Hence, this writ petition.

4. On instructions, the learned counsel for the respondents would submit that, now, the petitioner is receiving family pension with applicable Dearness Allowance as contemplated under G.O.Ms.No.49 Finance (Pension) Department, dated 11.02.2009. Insofar as the recovery is concerned, when the pensioner was alive, the pension was commuted. Thereafter, she died on 21.12.2012. Therefore, the second respondent is deducting 1/3rd pension in



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order to satisfy the commutation pension from the family pension.

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5. In view of the above, the prayer sought for in this writ petition cannot be considered and this writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

27.09.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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G.K.ILANTHIRAIYAN, J.

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