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W.P.No.29449 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2023

CORAM :

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.29449 of 2017

R.Logammal

.. Petitioner

Versus

1. The State of Tamil Nadu,
Rep. by its Secretary,
Transport Department,
Secretariat, Chennai - 600 009.
2. The State of Tamil Nadu
Rep. by its Secretary,
Finance Department,
Secretariat, Chennai - 600 009.
3. The Managing Director,
Metro Transport Corporation Chennai (TN) Ltd.,
Pallavan House, Anna Salai,
Chennai - 600 002.
4. The Regional Providence Fund Commissioner,
Royapettah, Chennai - 600 014.
5. The Commissioner,
Employees Provident Fund Organisation,
Sub-Regional Provident Fund Officer, Ambattur,
R 40 A, TNHB Complex,
Mugappair East, Chennai - 600 037.

.. Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus directing the 1st respondent to grant Tamil Nadu State Government Family Pension and pay arrears of family pension to the petitioner as per G.O.Ms.No.189 Transport Department, dated 13.08.2004 from the date of death of petitioner's husband 22.03.2013 for the service rendered by petitioner's husband in the State Transport Department by following the judgments in W.A.Nos.1246 of 2009, dated 18.08.2010, W.P.No.230 of 2014, dated 11.02.2014, W.P.No.18339 of 2014, dated 15.04.2016 and W.P.No.2467 of 2017 on the file of this Court and direct the 4th and 5th respondents to stop payment of Employees Provident Fund Pension to the petitioner forthwith and furnish statement of account of total provident fund pension to the respondents 1, 2 and 3 to enable them to pay the petitioner the family pension as per orders of this Court referred above.

For Petitioner : M/s.S.Buvaneswari

For Respondents : Mr.T.K.Saravanan,
Government Advocate,
for RR-1 and 2

: Mr.R.Balaji, for R3

: Mr.T.R.Sundaran, for RR-4 and 5

ORDER

The petitioner's husband, P.Ramalingam, was originally employed in Tamil Nadu State Transport Department. He had been appointed on 06.08.1963. Subsequently, Transport Corporations had been formed and the husband of the petitioner was absorbed in Pallavan Transport Corporation, City Wing on 01.05.1975. Thereafter, the Pallavan Transport Corporation and Dr.Ambedkar Transport Corporation Limited were merged and one



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further corporation was formed called Metro Transport Corporation Chennai (TN) Limited. The third respondent is the Managing Director, Metro Transport Corporation Chennai (TN) Limited. The husband of the petitioner retired on superannuation on 31.07.1998. He died on 22.03.2013. Consequent to G.O.Ms.No.42, Transport (RW) Department, dated 27.05.2005, the husband of the petitioner was drawing pension from Tamil Nadu State Government for the service rendered in the erstwhile Tamil Nadu State Transport Department. With respect to his employment under the Corporation / the third respondent, he was paid E.P.F pension. There is no dispute raised with respect to either the quantum or the period for which the pension / E.P.F pension was sanctioned and paid to the husband of the petitioner.

2. After the death of the husband of the petitioner, the petitioner continued to receive the family pension only under the Employees Provident Fund Scheme which is payable by the Metro Transport Corporation. The family pension which is receivable for his service under the Transport Department and payable by the Government was discontinued. The petitioner, therefore, gave a representation to discontinue the family pension



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under the E.P.F scheme, and to receive the family pension under the Government for the service rendered when it was Transport Department.

3. There was an earlier order passed that this is not possible. There was a challenge to the same in W.P.No.21204 of 1992 which was allowed. Thereafter, G.O.Ms.No.110, Transport Department, dated 06.06.2002 was passed, but, that benefited only the members of the Association who had filed the aforementioned Writ Petition. Thereafter, a further order was passed in W.P.No.19585 of 2003 and this benefit was extended to the family members of all State Transport Department employees and consequently, G.O.Ms.No.189, Transport (RW1) Department was issued on 13.08.2004.

4. The fulcrum of the above Government Order is as follows:-

"The Government after detailed examination have decided to implement the orders of the High Court dated 11.02.2004 in W.P.No.19585 of 2003 and accordingly extend the benefit of family pension ordered in the Government order first stated above to the spouses of all pensioners of erstwhile Tamil Nadu State Transport Department similarly placed subject to the conditions specified in the Government Order."



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5. The petitioner now seeks the benefit of the family pension to be paid by the Government. But, this requires that the family pension under the E.P.F scheme, as provided by the third respondent / Metro Transport Corporation Chennai (TN) Limited, should be stopped. The petitioner had given a representation expressing willingness for that to be stopped. Naturally, the benefit under G.O.Ms.No.189 Transport (RW1) Department, dated 13.08.2004 should also enure to the petitioner herein.

6. Heard the learned Counsel for the petitioner and also the learned Counsels for the respondents.

7. The facts stated above are neither denied nor disputed. The only aspect is that the Metro Transport Corporation Chennai (TN) Limited should stop the payment of family pension under the E.P.F scheme. The learned Counsel who appears for the Regional Provident Fund Commissioner, should intimate this particular fact through the Regional Provident Fund Commissioner, so that, they would immediately stop such payment. Simultaneously, the family pension, as payable to the petitioner



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under the rules and regulations which governed the service of her husband, should be paid to the petitioner herein.

8. In view of the above facts, the Writ Petition stands allowed and a Mandamus is issued to the second respondent to grant Tamil Nadu State Government Family Pension along with arrears to the petitioner in accordance with G.O.Ms.No.189 Transport (RW1) Department, dated 13.08.2004 from the date of death of the husband of the petitioner, 22.03.2013. This order may be implemented within a period of 16 weeks from the date of receipt of a copy of this order. If any clarifications are required, notice may be issued to the petitioner who may clarify the said issues. The arrears of the family pension would always be subject to adjustment of the benefit gained by the petitioner under the E.P.F scheme from the third respondent and the balance may be paid, but, from the date of this order, a single family pension may be paid in accordance with rules and regulations. No costs.

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Index : yes/no



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Speaking order/Non-speaking order

Neutral Citation : yes/no

grs



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To
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Transport Department,
Secretariat, Chennai - 600 009.
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Secretariat, Chennai - 600 009.
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C.V.KARTHIKEYAN, J.

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