BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2023

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.18607 of 2016

R. Chandravathana ... Petitioner

Vs.

1. The Additional Chief Secretary,
   Transport Department and
   Chairman of State Transport Undertakings,
   Fort Saint George,
   Chennai – 9.

2. The Managing Director,
   Tamil Nadu State Transport
   Corporation (Kumbakonam) Limited,
   Kumbakonam.

3. The General Manager,
   Tamil Nadu State Transport
   Corporation (Kumbakonam) Limited,
   Kumbakonam Region,
   Kumbakonam. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a ***Writ of Declaration,*** declaring the action of the respondents in refusing to pay Rs.3,00,000/- to the petitioner towards lump sum payment of family benefit fund is illegal and contrary to G.O.No.57, Finance (pension) Department, dated 22.02.2016 and consequently direct the respondents to pay the balance of Rs.1,50,000/- together with interest, at the rate of 18% per annum payable from 31.03.2016 till the date on which the above amount is settled to the petitioner.

For Petitioner	: Mr.A.Rahul
For R-1	: Mr.M.Lingadurai, Special Government Pleader
For R-2 & R-3	: Mr.D.Sivaraman Standing Counsel

ORDER

This writ petition is filed for ***Writ of Declaration*** to declaring the action of the respondents in refusing to pay a sum of Rs.3,00,000/-[Rupees Three Lakhs Only] towards the payment of family benefit fund is illegal and contrary to the G.O.No.57 Finance (pension) Department, dated 22.02.2016 with a consequential direction to the respondents to pay together with interest for a period from 31.03.2016.

2. Heard M/s. Mr.A.Rahul, learned counsel appearing for the petitioner and Mr.D. Sivaraman, learned Standing Counsel appearing for the 2nd respondent. Perused the material documents available on record.

3. The contention of the petitioner is that the petitioner's husband died on 31.03.2016. The Government has issued G.O.No.57, Finance (pension) Department, dated 22.02.2016 granting benefits to the employees. Since the petitioner's husband died prior to the issuance of the said G.O., the petitioner is claiming has husband is entitled to the benefits. Therefore, she had prayed to pay the said benefits under the said G.O. which is applicable to the deceased husband.

4. The respondents have refuted the said contention and submitted that the G.O.No.57, Finance (pension) Department, dated 22.02.2016 was issued by the State Government, which is applicable to the employees of the State Government only and not applicable to the employees of the Corporation. Since the employees demanded the benefits on par with the government employees, the Corporation entered settlement under 12(3) of Industrial Dispute Act, which was signed on 04.01.2018 and the benefits will come into effect only from 04.01.2018. Since the petitioner's husband died prior to the said 12(3) settlement and prior to the effective date, the claim of the petitioner cannot be entertained. The 12(3) settlement, cannot be applicable retrospectively. Hence, the claim of the petitioner cannot be considered.

5. Moreover, the respondents further stated in the counter that the Family Benefit Fund scheme was implemented, by deducting a sum of Rs.30/- from the employees and subsequently, the Rs.60/- was deducted from the employees. Based on the deduction of Rs.60/- only the employee is eligible for Rs.3,00,000/-. Since in the present case, the respondents have not deducted any amount from the salary the deceased employee, hence the petitioner is not entitled to for the Family Benefit Fund as well.

6. After considering the rival submissions, this Court is of the considered opinion the respondents cannot decline the family benefit to the petitioner. Since it is a welfare scheme applicable to the family of the deceased employee, the respondents cannot decline the same outrightly. It is also stated that the petitioner was already paid a sum of Rs.1,50,000/- based on the earlier scheme.

7. Therefore, for the subsequent scheme the respondents are directed to deduct a sum of Rs.60/- for a period from 31.03.2016 to 04.11.2018 from the terminal benefits of the deceased employee or from the family pension paid to the petitioner and after deducting the same, the respondents shall pay the eligible amount for the said period to the petitioner. The said exercise shall be completed, within a period of 6 weeks, from the date of receipt of a copy of the order.

8. With these observations and directions, this Writ Petition is allowed in above terms. No Costs.

Index : Yes / No

Internet : Yes

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S.SRIMATHY, J

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Order made in
W.P.(MD)No. 18607 of 2016

13.06.2023