



W.P(MD)No.20292 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2024

CORAM :

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20292 of 2022

and

W.M.P.(MD)Nos.14721 and 14722 of 2022

s.Angayarkanni

... Petitioner

Vs

1. The Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Rep. by its
Managing Director,
Kumbakonam.

2. The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Karaikudi Region, Karaikudi.

3. The Administrator,
The Tamil Nadu State Transport
Corporation Pension Fund Trust,
Thiruvalluvar Illam, Pallavan Salai,
Chennai 02.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus,



W.P(MD)No.20292 of 2022

calling for the records pertaining to the impugned order passed by the third respondent in Ref.No.12481-18/ Legal-2/ TNSTC EPFT/ 2018-318 dated 09.10.2019, quash the same and consequently direct the respondents to effect the payment of family pension along with dearness allowance to the petitioner with effect from the date of death of her husband Late.R.Kannan and to pay dearness allowance arrears on family pension together with interest at the rate of 18 percent per annum payable from the date of death of her husband within the time limit that may be fixed by this Court.

For Petitioner	: Mr.Rahul .A,
For R1 & R2	: Mr.K.Jegadees Balan Standing Counsel
For R3	: Mr.S.C.Herold Singh Standing Counsel

ORDER

The instant writ petition has been filed seeking to quash the order passed by the respondent Transport Corporation on 09.10.2019, wherein, the request of the petitioner for grant of dearness allowance on the family pension has been rejected on the ground that she is already employed as a PG Assistant in a Government Girls Higher Secondary School.



W.P(MD)No.20292 of 2022

2. According to the learned Counsel appearing for the petitioner, the husband of the petitioner was working as a selection grade Senior Assistant at Karaikudi in the first respondent Transport Corporation and while on duty, he had passed away on 09.02.2013 leaving behind the petitioner and his three children as his legal heirs. After the death of the petitioner's husband, she was receiving family pension. When she made a request for payment of dearness allowance on the family pension, under the impugned order, the same has been rejected by the Transport Corporation on the ground that the petitioner is already independently employed as PG Assistant (now retired from service). Such order has been challenged in the present writ petition.

3. The learned Counsel appearing for the petitioner had relied upon the judgment of the Hon'ble Supreme Court reported in (2002) 2 SCC 227. The relevant portion is extracted as follows:

7. Our attention is drawn to a decision of the Division Bench of the Punjab & Haryana High Court in the case of Swaran Kaur Vs. State of Punjab where the High Court, after ascertaining that the petitioner therein had not secured any job on compassionate grounds on account of the death of her husband, nor had any family member done so, held that



W.P(MD)No.20292 of 2022

dearness allowance on family pension could not be withheld. It said that the fact that the widow was in service at the time when her husband died would not deprive her of dearness allowance on family pension when the employment was not on compassionate grounds. We, therefore, agree with the reasoning and conclusion reached by the High Court in the impugned Judgment.”

4.The judgment of the Hon'ble Supreme Court has been followed by a learned Single Judge of this Court in W.P(MD)No.20244 of 2016, dated 02.11.2016 between ***T.Rajeswari Vs. Tamil Nadu State Transport Corporation Madurai Ltd. And two others***

5.In view of the judgment of the Hon'ble Supreme Court, it is clear that the respondent Transport Corporation cannot deny dearness allowance on the family pension merely on the ground that the petitioner is independently employed or receiving her own pension in her independent capacity. Therefore, the order impugned in the writ petition is set aside, the respondent authorities are directed to pay dearness allowance on the family pension received by the petitioner from 09.02.2013 onwards. The said exercise should be completed within a



W.P(MD)No.20292 of 2022

period of twelve weeks, from the date of receipt of a copy of this order.

WEB COPY

6. Accordingly, this writ petition stands allowed. No costs.

Consequently, the connected miscellaneous petitions are closed.

07.08.2024

Internet : Yes
Index : Yes/No
NCC : Yes/No

LR

To

1. The Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Rep. by its
Managing Director,
Kumbakonam.

2. The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Karaikudi Region, Karaikudi.

3. The Administrator,
The Tamil Nadu State Transport
Corporation Pension Fund Trust,
Thiruvalluvar Illam, Pallavan Salai,
Chennai 02.

5/6



WEB COPY



W.P(MD)No.20292 of 2022

R.VIJAYAKUMAR, J.

LR

W.P(MD)No.20292 of 2022

07.08.2024