IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.40717 of 2016

R.Manimekalai ... Petitioner

Vs

1 The State of Tamil Nadu,
Rep. by Principal Secretary to Govt.,
Finance (Pension) Department,
Fort St.George,
Chennai-600 009.

2 The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Villupuram-605 605.

3 The General Manager,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Villupuram-605 605.

4 The Administrator,
TNSTC Employees Pension Fund Trust,
Chennai- 600 002. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records relating to the impugned letter of the 2nd respondent herein in letter

No.30770/Va Vai Ni4/ Tha Na AaPoKa(V)/2016, dated 14.7.2016, quash the same and consequently direct the respondents herein to pay the Dearness Allowance on Family Pension as ordered in the G.O.Ms.No.112, Finance (Pension) Department, dated 24th March, 2008, issued by the 1st respondent herein, from the date of Family Pension sanctioned to till date.

For Petitioner : Mr.K.Govi Ganesan

For Respondent 1 : Mr.K.H.Ravikumar, Govt. Advocate.

For Respondents 2 & 3 : Mr.M.Aswin

For Respondent 4 : Mr.C.S.K.Sathish

ORDER

This Writ Petition has been filed praying for issuance of writ of certiorari to call for the records relating to the impugned letter of the 2nd respondent herein in letter No.30770/Va Vai Ni4/ Tha Na AaPoKa(V)/2016, dated 14.7.2016, quash the same and consequently direct the respondents herein to pay the Dearness Allowance on Family Pension as ordered in the G.O.Ms.No.112, Finance (Pension) Department, dated 24th March, 2008, issued by the 1st respondent herein, from the date of Family Pension sanctioned to till date.

2. The brief facts that are relevant for disposal of this Writ Petition

are as follows :

The husband of the petitioner, namely, late C.N.Kuthalingam, who served in the respondent Corporation for about 30 years, retired from service on 31.05.2014 as Senior Superintendent. It was thereafter, he passed away on 23.12.2015, leaving behind the petitioner herein and her son. The husband of the petitioner was paid pension during his lifetime and, thereafter, the petitioner herein is being paid family pension. However, the petitioner is denied Dearness Allowance payable on the family pension amount and, therefore, she submitted a representation before the respondent Corporation for payment of Dearness Allowance on the family pension. The said request of the petitioner was negatived by the third respondent, on the ground that the petitioner having served as Assistant Director in Local Fund Audit Department, retired from service and had been drawing pension and Dearness Allowance and, therefore, the petitioner is not entitled for drawing Dearness Allowance for the second time on the family pension amount, that is being received by the petitioner. It is aggrieved by the said proceedings, dated 14.07.2016, the petitioner approached this Court, by filing the present Writ Petition.

3. The petitioner also placed reliance on the orders issued by the Government in G.O.Ms.No.112, Finance (Pension) Department, dated

24.03.2008, for payment of Dearness Allowance on the family pension amount being received by her in respect of the service rendered by her deceased husband.

4. When the matter was taken up for consideration, learned counsel for the petitioner placed reliance upon a decision of a co-ordinate Bench of this Court in W.P.No.10999 of 2009, dated 11.08.2018, and contended that the issue that arises for consideration in the present writ petition is squarely covered by the said order. I have perused the said order, dated 11.08.2018, and been convinced that the issue is squarely covered. However, at the request of the learned counsel for the respondents, the matter was adjourned.

5. Learned counsel for the fourth respondent contended that the petitioner is not entitled for second Dearness Allowance on the family pension amount being received by her and he placed reliance on a decision of the Hon'ble Apex Court in the case of *Union of India and Others v. G.VAsudevan Pillay and Others*, 1995 (2) SCC 32. He also placed yet another decision of the Apex Court in the case of *State of Madhya Pradesh v. G.C.Mandawar*, 1954 (1) SCC 970.

6. I have carefully considered the submissions made on either side.

7. In the decisions that are relied upon by the learned counsel for

fourth respondent, there was a specific rule, providing for non-payment of Dearness Allowance for the second time. But, in the instant case, admittedly, there is no rule, which disentitles the petitioner from receiving Dearness Allowance on the family Pension amount. The co-ordinate Bench of this Court was pleased to consider the very same issue in W.P.No.10999 of 2009 and, by an order, dated 11.08.2018, held as under :

> *"9. A perusal of G.O.Ms.No.112, dated 24.03.2008 shows that the Government had permitted Dearness relief at the rate of 50% to be paid to all employed family pensioners. The petitioner was therefore, entitled to family pension and Dearness Allowance on her retirement and at the same time, she is also entitled to family pension, which is payable to her on the death of her husband, who was employed in the State Government.*
>
> *10. Rule 20 (A) of the Tamil Nadu State Transport Corporation Pension Fund Rules reads as under :-*
>
> *Dearness Allowance to Pensioners : On addition to the basis pension, the pensioners are eligible for normal dearness at the rates that may be determined by the Government of Tamil Nadu.*
>
> *11. The Dearness Allowance component of the pensionary benefit given to the petitioner can never be taken away from her. She is entitled to it under Rule 20 (A) of Tamil Nadu State Transport Corporation Pension Fund Rules. The question is as to whether under G.O.Ms.No.112, she would also be entitled to Dearness Allowance on the family pension which, she is entitled to get on the death of her husband.*
>
> *12. A reading of G.O.Ms.No.112 does not bar payment of*

Dearness Relief on family pension payable to pensioners, who have retired from State Government or Central Government or other instrumental bodies of State. G.O.Ms.No.112 specifies that 50% of the Family Pension and Dearness Allowance on family pension, wherever admissible will be paid to all the employed family pensioners in State or Central Government or a Government Undertaking or a Corporation or an Autonomous Body or a Local Fund in a post on fixed pay or on time scale of pay where Dearness Allowance on pay are allowed.

13. There is no justification in stopping the Dearness Allowance, which was paid to the petitioner on her retirement or the Dearness Allowance component of the family pension, which the petitioner is entitled to death on her husband."

8. The respondent Corporation is a party to the said decision and the said order, dated 11.08.2018. In the light of the fact that this Court has already adjudicated the very same issue, this Court does not see any necessity to examine the matter once again in detail. In view of the order passed by a co-ordinate Bench of this Court, the impugned order herein is liable to be quashed and the entitlement of the petitioner for drawing Dearness Allowance on family pension being received by her in respect of the service rendered by her deceased husband cannot be denied.

9. Accordingly, the impugned order is quashed and the Writ Petition is allowed, directing the respondents to pay Dearness Allowance on

the family pension to the petitioner together with arrears, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of copy of this order.

25.08.2025

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

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To:

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MUMMINENI SUDHEER KUMAR, J.

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