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W.P.No.33827 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.12.2025

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.33827 of 2019

K.Devaki Amma

... Petitioner

vs

1. The Secretary to Government,
Transport Department,
Fort St. George, Chennai – 600 009.

2. The Managing Director,
Metropolitan Transport Corporation
(Chennai) Ltd.,
“Pallavan House”,
Anna Saalai,
Chennai – 600 002.

3. The Deputy Manager (A & A)
Metropolitan Transport Corporation (Chennai) Ltd.,
“Pallavan House”,
Anna Saalai, Chennai – 600 002.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent made in the proceedings No.6002/O.Na.Th.PI/ ma.po.ka./2019 dated 09.08.2019, quash the same and directing the respondents to grant Family Pension to the petitioner from the date following the date of death of her husband



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viz., with effect from 08.04.1998 instead of 07.03.2001, with consequential arrears of Family Pension, within the time limit as fixed by this Court.

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For Petitioner : Mr.J.Varun for
Mr.R.Baskardoss

For Respondents : Mr.A.Vinothraj
Standing Counsel

ORDER

Heard the learned counsel appearing for the petitioner, the learned Standing Counsel for the respondents and perused the records.

2. The case of the petitioner in brief is that her husband was in regular employment of the respondent Corporation during the period 1972-1987; that, after retiring from service, he was granted pension; that he had deceased on 07.04.1988; that on his death, she is entitled for being granted family pension; that as the respondent failed to make payment of family pension, she had approached this Court and filed writ petition *vide* W.P.No.38382 of 2002 and this Court, by order dated 20.12.2002, directed the respondent to grant family pension under the existing Pension Rules to the petitioner as expeditiously as possible, not later than three months.



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3. The petitioner further contends that the respondent *vide* proceedings dated 27.10.2003, granted family pension for a sum of Rs.1275/-, the same was granted with effect from 07.03.2001, instead of date of death of her husband i.e., 07.04.1988.

4. The petitioner further contended that though the respondent while granting family pension, had placed reliance on G.O.Ms.No.327 dated 30.08.2001, and claimed that the same is subject to fulfilment of conditions prescribed therein, a similar condition imposed *vide* para 10 of G.O.Ms.No.110, Transport Department, dated 08.04.1988 and G.O.Ms.No.189 dated 06.03.2001 were struck down by this Court in W.P.No.482 of 2008 dated 23.06.2009 and as such, the respondents are liable to pay family pension from the date of death of her husband i.e., with effect from 07.04.1988.

5. Counter affidavit on behalf of the respondent is filed.

6. The respondent primarily contended that the petitioner had approached this Court by the present writ petition with a substantial delay and as such, the petitioner is not entitled for being granted any relief.



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7. I have taken note of the respective contentions as urged.

8. At the outset, it is to be noted that a duty is cast upon the respondents to grant family pension to the family of the deceased employee. The respondents having failed to grant family pension on the death of the petitioner husband, who admittedly, was an ex-employee of the Respondent, firstly, forced the petitioner to approach this Court, by filing Writ Petition *vide* W.P.No.38382 of 2002, wherein this Court had passed order on 20.12.2002 directing the respondents to pay family pension to the petitioner. Though the respondents claim of making payment of family pension with effect from 07.03.2001, admittedly, the said date has no legal basis or sanctity to stand on its own, except being the date of order in a similar writ petition passed by this Court ie., W.P.No.21204 of 1992. It is to be noted that the date of judgment of this Court, cannot be taken as the date on which the liability to pay the family pension had arisen. On the other hand, the liability to pay family pension arises, when the deceased member of the respondent corporation who is in receipt of pension had died.



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9. In the facts of the present case, since the petitioner's husband having retired from service on 30.04.1987 and being paid pension, the petitioner being a legal heir of the deceased ex-employee of the respondent, would be entitled for family pension on her husband's death.

10. The respondent instead of granting family pension from the date of her husband, however, sought to justify its action, by the counter stating that the petitioner has approached this Court with delay. The said stand taken by the respondent only goes to show the inhuman approach on the part of the respondent.

11. Further, it is to be noted that non-payment of pension/family pension are continuing cause of action as default occurs every month as held by the Apex Court in the case of *Shiv Dass and others Vs. Union of India and others [(2007) 9 SCC 274]* and thus, the hyper technical approach on the plea of delay taken by the respondents cannot be countenanced.

12. Accordingly, this Writ Petition is allowed and the impugned order dated 09.08.2019 is set aside. The respondent is directed to pay the arrears of family pension to the petitioner with effect from 08.04.1988 till 06.03.2001, within eight weeks from the date of receipt of a copy of this Order. In addition, the respondents



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are directed to pay costs of Rs.25,000/- to the petitioner. Consequently,

Miscellaneous Petitions if any stand closed.

01.12.2025

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

dh

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