



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2016

C O R A M

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.(MD) No.11147 of 2015

E.Subramanian

.. Petitioner

Vs.

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

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

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring the action of the respondents in computing the gratuity, leave salary payable to the petitioner by taking into account the dearness allowance payable on his pay / wages at the rate of 58% instead of 65% as illegal and contrary to the G.O.No.116 Finance (Allowance) Department dated 09.04.2012 issued by the Government of Tamil Nadu and consequently direct the respondents to compute and pay him the difference amount in gratuity and leave salary by taking into account revised rate of dearness allowance i.e. at the rate of 65% of pay + grade pay as fixed in G.O.No.116 Finance (Allowances) Department dated 09.04.2012 within the time limit that may be fixed by this Court.

For petitioner

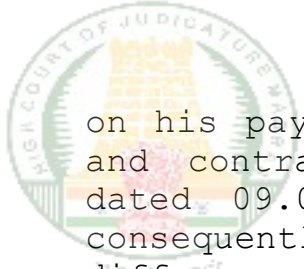
... Mr.A.Rahul

For Respondents

... Mr.D.Sivaraman

O R D E R

The petitioner joined the services of the first respondent corporation as Clerk with effect from 09.11.1981; that he was promoted as Junior Assistant and finally as Selection Grade Senior Assistant and he retired from service on 30.04.2012 in the said service and the petitioner seeks to declare the action of the respondents in computing the gratuity, leave salary payable to the petitioner by taking into account the dearness allowance payable



on his pay / wages at the rate of 58% instead of 65% as illegal and contrary to the G.O.No.116 Finance (Allowance) Department dated 09.04.2012 issued by the Government of Tamil Nadu and consequently direct the respondents to compute and pay him the difference amount in gratuity and leave salary by taking into account revised rate of dearness allowance i.e. at the rate of 65% of pay + grade pay as fixed in G.O.No.116 Finance (Allowances) Department dated 09.04.2012.

2. Whenever the Government orders increase in Dearness Allowance to Government employees, the same shall be extended to Transport Corporation Employees, is the commitment made by the respondent in the settlement effected under Section 12(3) of the Industrial Disputes Act.

3. Rule 20-A of the Tamil Nadu State Transport Corporation Pension Fund Rules deals with Dearness Allowance payable to pensioners, which states that in addition to basic pension, the pensioners are eligible for nominal Dearness Allowance at the rates that may be determined by the Government of Tamil Nadu. But, the provision was not immediately made applicable to the employees of the Transport Corporation. The practise was that every time, the Pension Fund Trust had to seek the approval of the Government for enhancement of Dearness Allowance. Therefore, in order to avoid delay, the retired employees Welfare Association filed W.P.34530 of 2012 before the Principal Seat of Madras High Court, seeking amendment of Rule 20(A) of the TNSTC Pension Fund Rules.

4. The Principal Seat directed the Pension Trust to forward the proposal to Government seeking amendment to Rule 20(A) of the Pension Fund Rules.

5. The Pension Trust filed an affidavit stating that whenever Government orders enhancement of D.A., the subject will be placed before the Trustees of the Trust and after getting approval of the Board of Trustees, the increased D.A., will be effected to pensioners / family pensioners in future. Therefore, according to the stand taken by the Trust, the approval of the Government is no longer required.

6. However, there is also a Government Order in G.O.No.116 Finance (Allowances) Department dated 09.04.2012 for enhancement of Dearness Allowance to all State Employees from 58% to 65% and as per the stand of the Trust, the said benefits should also be extended to Transport Corporation Employees.

7. Thus, it is clear that the petitioner is entitled to the applicable Dearness Allowance, which shall be calculated, taking Dearness Allowance as 65% and not as 58%. Therefore, the writ petition is ordered. The respondent shall effect fresh calculation by taking the D.A. as 65% on the Basic Pay and Grade



Pay and pay the dues / balance to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs.

WEB COPY

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Represented by its Managing Director,
Kumbakonam, Thanjavur District.
- 2.The General Manager,
The Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Karaikudi Region, Karaikudi,
Sivagangai District.

+1cc to Mr.D.Sivaraman,Advocate Sr.No.66211

W.P.(MD) No.11147 of 2015
03.11.2016

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