

**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.18901 of 2014**

K.Subramanian

.. Petitioner

Vs.

1. The Management of Tamil Nadu
State Transport Corporation (Coimbatore) Ltd.,
Represented by its Managing Director,
Coimbatore.

2. The General Manager,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Erode Region, Erode.

3. The Administrator,
Tamil Nadu State Transport Corporation
Pension Fund Trust, Thiruvalluvar House,
Pallavan Salai, Chennai-2.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to extend the benefit of revised rate of dearness allowance at the rate of 100% to the petitioner instead of 90% as per G.O.Ms.No.55, Transport (D) Department dated 04.06.2014 and consequently, direct the respondents to pay the petitioner difference in salary and also difference in retiral benefits including gratuity, leave salary, commuted value of pension by taking into account the dearness allowance payable on his pay/wages at the rate of 100% instead of 90% within a stipulated time.

For petitioner	... Mr.A.Rahul
For R1 & R2	... Mr.K.Sathiyasingh
For R3	... Mr.A.P.Muthupandian

O R D E R

The petitioner joined the services of the first respondent corporation as Casual Labourer on daily wage basis with effect from 21.05.1979; that his service was confirmed in the post of Cleaner from 01.11.1980; that he was promoted as Tradesman and subsequently as Senior Tradesman and he retired from service on 31.03.2014 in the said post and the petitioner seeks to direct the respondents to extend the benefit of revised rate of dearness



allowance at the rate of 100% to the petitioner instead of 90% as per G.O.Ms.No.55, Transport (D) Department dated 04.06.2014 and consequently, direct the respondents to pay the petitioner difference in salary and also difference in retiral benefits including gratuity, leave salary, commuted value of pension by taking into account the dearness allowance payable on his pay/wages at the rate of 100% instead of 90%

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 everytime, the 3rd respondent 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 3rd respondent Trust to forward the proposal to Government seeking amendment to Rule 20(A) of the Pension Fund Rules.

5. The 3rd respondent Trust filed an affidavit stating that whenever Government orders enhancement of D.A., the subject will be placed before the Trustees of the 3rd respondent 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 3rd respondent, the approval of the Government is no longer required.

6. However, there is also a Government Order, applying enhancement of Dearness Allowance to Transport Corporation Employees and the Government Order reads as under:

"3. The Government after careful examination accept the request of Managing Directors of all State Transport Undertakings and accord sanction for enhancement of Dearness Allowance from 90% to 100% with effect from 01.01.2014 to Managerial Cadre Officers / Administrative and Technical Supervisors and to the employees of State Transport Undertakings subject to the condition that the financial commitment likely to arise on account of enhancement of the Dearness Allowance should be borne by the State Transport Undertakings without seeking any

financial assistance directly or indirectly from the Government."

7. Thus, it is clear that the petitioner is entitled to the applicable Dearness Allowance, which shall be calculated, taking the rate of Dearness Allowance as 100% and not as 90%. Therefore, the writ petition is ordered. The respondent shall effect fresh calculation by taking the D.A. as 100% 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.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

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To:

1. The Management of Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Represented by its Managing Director,
Coimbatore.
2. The General Manager,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Erode Region, Erode.
3. The Administrator,
Tamil Nadu State Transport Corporation
Pension Fund Trust, Thiruvalluvar House,
Pallavan Salai, Chennai-2.

+1cc to M/S. A.RAHUL, ADVOCATE SR.NO. 65126

JAM/01.12.16/SS 2 /3p-5c

W.P. (MD) No.18901 of 2014

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03.11.2016