



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2016

C O R A M

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THE HON'BLE DR.JUSTICE S.VIMALAW.P.(MD) No.5892 of 2014

Chellamuthu

.. Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport
Corporation (Coimbatore) Ltd.,
No.37, Mettupalayam Road,
Coimbatore-641 043.

2.The General Manager
Tamil Nadu State Transport
Corporation (Coimbatore) Limited,Erode Region,
Chennimalai Road, Erode-638 001.

3.The Administrator,
The Tamil Nadu State Transport
Corporation Pension Fund Trust,
Thiruvalluvar House,
Pallavan Salai, Chennai-600 002.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring the action on the part of the respondents in computing the gratuity payable to the petitioner by taking into account the dearness allowance payable on the petitioner's pay /wages at the rate of 58% instead of 65% and in not paying interest on the belated settlement of gratuity and commuted value of pension paid to the petitioner as illegal unjust and arbitrary and consequently direct the respondents to (i) compute and pay the difference amount in gratuity to the petitioner by taking into account revised rate of dearness allowance i.e. at the rate of 65% of pay + Grade pay (ii) Pay interest at the rate of 10% per annum for the belated settlement of gratuity for the period from 31.05.2012 to 30.12.2013 and for belated settlement of commuted value of pension for the period from 31.05.2012 to 01.11.2013 and (iii) to settle all my terminal benefits including leave salary without any further delay but with interest at the rate of 10% per annum for the period from 31.05.2012 to the date on which the said benefits are settled to the petitioner.

**ORDER**

The petitioner joined the services of the respondent corporation as Conductor with effect from 30.04.1978; that he was subsequently promoted as Senior Assistant and he retired from service on 31.05.2012 in the said post and the petitioner has approached this Court, seeking the following relief:

(i) To compute and pay the difference amount in gratuity to the petitioner by taking into account revised rate of dearness allowance i.e. at the rate of 65% of pay + Grade pay;

(ii) To pay interest at the rate of 10% per annum for the belated settlement of gratuity for the period from 31.05.2012 to 30.12.2013 and for belated settlement of commuted value of pension for the period from 31.05.2012 to 01.11.2013 and

(iii) To settle all my terminal benefits including leave salary without any further delay but with interest at the rate of 10% per annum for the period from 31.05.2012 to the date on which the said benefits are settled to the petitioner.

Dearness Allowance:

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.

2.1. 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 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.

2.2. The Principal Seat directed the Trust to forward the proposal to Government seeking amendment to Rule 20(A) of the Pension Fund Rules. The 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 ~~extended to pensioners / family pensioners in future.~~ Therefore, according to the stand taken by the Trust, the approval of the Government is no longer required.



2.3. 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 its State Employees from 58% to 65% plus Grade Pay and as per the stand of the Trust, the said benefits should also be extended to Transport Corporation Employees.

Conclusion:

2.4. Thus, it is clear that the petitioner is entitled to the applicable Dearness Allowance plus Grade Pay, which shall be calculated, taking the rate of Dearness Allowance as 65% and not 58%. The respondents 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.

Interest for the Commuted Value of Pension

3. Following the Division Bench Judgment of this Court in Writ Appeal (MD) Nos.383 to 457 of 2015, dated 12.06.2015, the Courts are consistently passing orders for payment of retirement dues with interest at 6% p.a. with default interest of 18% p.a.

Conclusion:

3.1. Accordingly, the respondents are directed to pay the interest due (at rate of 6% p.a.) on the retirement dues already paid, within a period of six weeks from the date of receipt of a copy of this order, failing which, the default interest would be 18% p.a.

Settlement of Terminal Benefits:

4. The First Bench of this Court in similar matter has passed an order dated 12.06.2015 in W.A.(MD) Nos.383 to 457 of 2015, issuing direction to the transport Corporations to settle the terminal benefits of its employees in equal monthly instalments and to pay 6% interest on the terminal benefits payable to the workman. The Bench has also held that workman is entitled to 18% interest for the defaulted period of instalment.

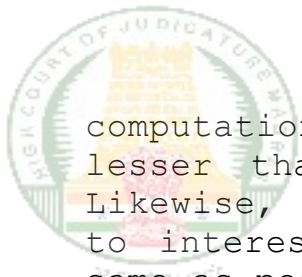
Conclusion:

4.1. Therefore, a direction is issued to the transport corporation to settle the terminal benefits of the petitioner that are yet to be settled, in twelve equal monthly instalments. The first instalment shall commence by making payment on or before the 10th April 2017 and the amount in each of the remaining instalments shall be paid on or before 10th of every succeeding month;

4.2. The said terminal amount shall carry interest @ 6% per annum, as per the Division Bench judgment referred to above. In case of delay in making instalments, the interest payable could be 18% for the delayed period;

<https://hcservices.ecourts.gov.in/hcservices/>

4.3. The aforesaid direction to settle the terminal benefits would not preclude the workman to question the



computation of any of the terminal benefits, if the same is paid lesser than the amount to which, he is entitled to receive. Likewise, if the petitioner has any grievance that he is entitled to interest for the amount already settled, he can agitate the same as per law, if he is entitled.

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With these directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Managing Director,
Tamil Nadu State Transport
Corporation (Coimbatore) Ltd.,
No.37, Mettupalayam Road,
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- 2.The General Manager
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- 3.The Administrator,
The Tamil Nadu State Transport
Corporation Pension Fund Trust,
Thiruvalluvar House,
Pallavan Salai, Chennai-600 002.

+1cc to M/S.A.RAHUL Advocate SR.No.65128
+1cc to M/S.D.SIVARAMAN Advocate SR.No.66208

W.P.(MD) No.5892 of 2014
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JM/SKN RSK/SAR 2/18.04.2017/4P/6C