



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.20306 of 2016

P.Jesuraja

.. Petitioner

Vs.

Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Represented by its Managing Director,
Madurai

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to revise the petitioner's last drawn pay by taking dearness allowance at the rate of 90% of the basic pay and grade pay as per Tamil Nadu Government Letter (MS) No.24 Transport (E) Department dated 20.02.2014 and consequently direct the respondent to compute and pay him, the difference amount in gratuity, leave salary by taking into account revised rate of dearness allowance, i.e. at the rate of 90% of basic pay + Grade Pay as fixed in Letter (MS) No.24 Transport (E) Department dated 20.02.2014 within the time that may be stipulated by this Hon'ble Court.

For petitioner

... Mr.A.Rahul

For Respondent

... Mr.A.Jayaram

O R D E R

The petitioner joined the services of the first respondent corporation as Driver with effect from 01.10.1980; that he was subsequently promoted as Driving Instructor and he retired from service on 31.07.2013 in the said post and the petitioner seeks to direct the respondent to revise the petitioner's last drawn pay by taking dearness allowance at the rate of 90% of the basic pay and grade pay as per Tamil Nadu Government Letter (MS) No.24 Transport (E) Department dated 20.02.2014 and consequently direct the respondent to compute and pay him, the difference amount in gratuity, leave salary by taking into account revised rate of dearness allowance, i.e. at the rate of 90% of basic pay + Grade Pay as fixed in Letter (MS) No.24 Transport (E) Department dated 20.02.2014.

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 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 Trust to forward the proposal to Government seeking amendment to Rule 20(A) of the Pension Fund Rules.

5. 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 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 Letter (MS) No.24 Transport (E) Department dated 20.02.2014 for enhancement of Dearness Allowance to Transport Corporation Employees and the said letter reads as under:

"3. In the Government Order third cited, orders were issued sanctioning the Revised Dearness Allowance at 10% to the State Government Pensioners with effect from 01.07.2013.

4. The Administrator, Tamil Nadu State Transport Corporation Employees' Pension Fund Trust in his letter fourth cited, has requested the Government to accord approval for implementation of the enhanced rate of Dearness Allowance from 80% to 90% with effect from 01.07.2013 to all pensioners / family pensioners of State Transport Undertakings.

5. The Government have carefully examined the proposal of the Administrator, Tamil Nadu State Transport Corporation Employees' Pension Fund Trust and accord



condition that the Tamil Nadu State Transport Corporation Employees Pension Fund Trust should meet the entire amount without seeking any financial assistance 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 **90% and not as 80%**. Therefore, the writ petition is ordered. The respondent shall effect fresh calculation by taking the D.A. as **90%** 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:

Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Represented by its Managing Director,
Madurai

+1CC TO M/S.A.RAHUL, ADVOCATE SR.NO. 65115

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