



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.11.2016
CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALA
W.P(MD)No.22199 of 2016

D.Sampathraja Soodamani

... Petitioner

vs.

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

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

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents to revise the petitioners last drawn pay by taking dearness allowance at the rate of 45% of the basic pay and grade pay as per Tamilnadu Government Lr.(MS) No.183 Transport (D) Department dated 17.11.2011 and consequently direct the respondents 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 45% of basic pay +Grade Pay as fixed in Letter (MS)No.183 Transport (D) Department dated 17.11.2011 within the time to be fixed by this Court.

For Petitioner : Mr.A.Rahul
For RR - 1 & 2 : Mr.D.Sivaraman

ORDER

The petitioner served as Conductor under the respondents corporation with effect from 08.11.1981 and he retired from service on 31.12.2010 in the post of Special Grade Conductor and he seeks a direction to the respondents to revise the petitioner's last drawn pay by taking dearness allowance at the rate of 45% of the basic pay and grade pay as per Tamilnadu Government Lr.(MS) No.183 Transport (D) Department dated 17.11.2011 and consequently direct the respondents 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 45% of basic pay +Grade Pay as fixed in Letter (MS)No.183 Transport (D) Department dated 17.11.2011.



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.

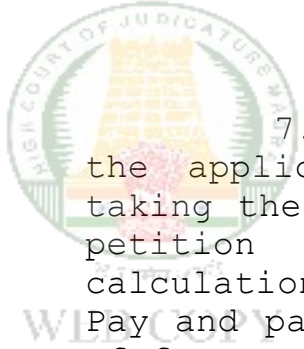
3. Rule 20-A of the Tamil Nadu State Transport Corporation Pension Fund Rules deals with Dearness Allowance payable to pensioners, which states that in addition to basic pension, the pensioners are eligible for nominal Dearness Allowance at the rates that may be determined by the Government of Tamil Nadu. But, the provision was not immediately made applicable to the employees of the Transport Corporation. The practice was that everytime, the respondents 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 therein 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:

"5. The Government have carefully examined the proposal of the Administrator, Tamil Nadu State Transport Corporation Employees' Pension Fund Trust and accord sanction for enhancement of Dearness Allowance from 58% to 65% with effect from 01.01.2012 to all the pensioners/family pensioners of State Transport Undertakings subject to the 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 45%. Therefore, the writ petition is ordered. The respondents shall effect fresh calculation by taking the D.A. as 45% 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(AE)

/TRUE COPY/

Sub Assistant Registrar

To

+1 cc to MR.D.Sivaraman, ADVOCATE, SR NO:71312

+1 cc to MR.A.Rahul, ADVOCATE, SR NO:71093

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21.11.2016

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