

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 06.02.2017**

CORAM :

THE HON'BLE MR. JUSTICE **T.RAJA**

**Review Application (W).No.148 of 2016  
in  
W.P.No.4097 of 2016**

Kothandaraman

... Petitioner

vs.

1. Tamil Nadu State Transport Corporation  
(Villupuram) Ltd.,  
Rep. by its Managing Director  
Vazhuthareddy,  
Villupuram.

2. The General Manager  
Tamil Nadu State Transport Corporation  
(Villupuram) Ltd.,  
Kancheepuram Region,  
Ponnerikaral,  
Bangalore National Highways,  
Kancheepuram.

3. Tamil Nadu State Transport Corporation's  
Employees' Pension Trust,  
Rep. by its Administrator,  
Thiruvalluvar Illam,  
Anna Salai,  
Chennai - 600 002.

... Respondents

Review Application filed under Order 47 Rule 1 read with Section 114 of CPC, to review the order, dated 04.02.2016 in so far as W.P.No.4097 of 2016 passed by this Court.

For petitioner : Mr.V.Ajoy Khose

For respondents : Mr.P.Kannan Kumar

**ORDER**

The Review Application has been filed by Kothandaraman, the petitioner in W.P.No.4097 of 2016 to review the order, dated 04.02.2016 in so far as W.P.No.4097 of 2016 is concerned by granting permission to rectify the clerical mistake by correcting the prayer in the affidavit and writ petition from

For the above aforementioned reasons, it is prayed that this Hon'ble Court may be pleased to issue an order, direction to writs and in particular issue a writ in the nature of Mandamus directing the respondents to pay me forthwith a sum of Rs.4,95,803/- towards gratuity; a sum of Rs.11,622/- towards earned leave salary for 12 days, a sum of Rs.4,360/- towards IRT and a sum of Rs.6,000/- towards the difference in monthly pension payable under post retirement scheme, together with interest at the rate of 12% and to pay me the monthly pension under the post retirement scheme at the rate of Rs.1,000/- per month, within a specified time as may be fixed by this Hon'ble Court and thus render justice."

as

"For the above aforementioned reasons, it is prayed that this Hon'ble Court may be pleased to issue an order, direction to writs and in particular issue a writ in the nature of Mandamus directing the respondents to pay me forthwith a sum of Rs.79,396/- towards

difference wages for the period from 01.09.2013 to 30.04.2015 based on the increase in D.A and arrears of 4th review benefits for 4 months, with both employer and employee contribution of P.F, Rs.5,92,062/- towards gratuity; a sum of Rs.1,44,844/- towards earned leave salary for 122.5 days and a sum of Rs.2,50,929/- towards commuted value of pension and also to revise my terminal benefits including monthly pension based on the actual pay payable to me as on the date of my retirement and to pay me the difference amounts, together with interest at the rate of 12% within a specified time as may be fixed by this Hon'ble Court and thus render justice."

3. Mr.V.Ajay Khose, learned counsel appearing for the review petitioner drawing the notice of this Court to paragraph 12 of the affidavit filed in support of the writ petition in W.P.No.4097 of 2016 would submit that the petitioner has specifically mentioned the arrears of difference in wages payable to him from 01.09.2013 to 30.04.2015 towards increase in DA and arrears of 4th review benefits for 4 months from January'2015 to May'2015 which comes to Rs.79,396/-. He has also specifically pleaded that any fraction of service over and above 6 months shall be rounded of as one year service both for the purpose of payment of gratuity and pension. Therefore, the total service of 29 years, 7 months and 7 days shall be

taken as 30 years for gratuity and pension. On this score for his 30 years of service, the total gratuity amount payable is about Rs.5,92,062/- and his 1/3rd of his monthly pension is Rs.2,498/- and therefore, the amount payable to him towards commuted value of pension is Rs.2,50,929/- and the encashment of earned leave for about 122.5 days comes to Rs.1,44,844/-. When these benefits were directed to be paid to the petitioner with interest for the belated payment, he has wrongly made the prayer as stated above.

4. Adding further he would submit that although a direction was given by this Court to the respondents to consider the representation of the petitioner, dated 03.01.2016, 04.01.2016, 05.01.2016 and 06.01.2016 respectively with regard to the various claim made by several persons for settlement of their retiral and terminal benefits, with abundant caution, he has advised to move this Court with the present Review Application.

5. The reason is that if the respondents at the time of disposing the representation entertain any confusion that would again cause grave prejudice to the petitioner, therefore he prayed for either clarifying the order or allowing the Review Application that would not cause any prejudice to the other side.

6. Mr.P.Kannan Kumar, learned counsel appearing for the respondents fairly submits that there is no objection for the respondents to disagree with the prayer made by the petitioner.

7. The prayer made by the petitioner in the writ petition is given as under :

"Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to pay the petitioner forthwith a sum of Rs.4,95,803/- towards gratuity; a sum of Rs.11,622/- towards earned leave salary for 12 days; a sum of Rs.4,360/- towards IRT and a sum of Rs.6,000/- towards the difference in monthly pension payable under post retirement scheme, together with interest at the rate of 12% and to pay the petitioner's the monthly pension under the post retirement scheme at the rate of Rs.1,000/- per month within a specified time."

But his original prayer in the affidavit is as follows :

"For the above aforementioned reasons, it is prayed that this Hon'ble Court may be pleased to issue an order, direction to writs and in particular issue a writ in the nature of Mandamus directing the respondents to pay me forthwith a sum of Rs.79,396/- towards difference wages for the period from 01.09.2013 to 30.04.2015 based on the increase in D.A and arrears of 4th review

benefits for 4 months, with both employer and employee contribution of P.F, Rs.5,92,062/- towards gratuity; a sum of Rs.1,44,844/- towards earned leave salary for 122.5 days and a sum of Rs.2,50,929/- towards commuted value of pension and also to revise my terminal benefits including monthly pension based on the actual pay payable to me as on the date of my retirement and to pay me the difference amounts, together with interest at the rate of 12% within a specified time as may be fixed by this Hon'ble Court and thus render justice."

8. Therefore, accepting the inadvertent mistake committed by the petitioner for making the typographical mistake in the prayer in the writ petition in W.P.No.4097 of 2016 and also recording no objection made by the respondents, this Review Application is ordered as prayed for. No costs.

**06.02.2017**

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Index : Yes / No

**Note to Office :**

- (1) The Registry is directed to issue fresh order copy in W.P.Nos.4089 to 4098 of 2016 after carrying out the mistake in the prayer in W.P.No.4097 of 2016 as mentioned above.
- (2) Issue order copy on 13.02.2017.

To

1. The Managing Director  
Tamil Nadu State Transport Corporation  
(Villupuram) Ltd.,  
Vazhuthareddy, Villupuram.
2. The General Manager  
Tamil Nadu State Transport Corporation  
(Villupuram) Ltd.,  
Kancheepuram Region,  
Ponnerikaral,  
Bangalore National Highways,  
Kancheepuram.
3. The Administrator  
Tamil Nadu State Transport Corporation's  
Employees' Pension Trust,  
Thiruvalluvar Illam,  
Anna Salai,  
Chennai - 600 002.

**T.RAJA, J**

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