



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD) No.6546 of 2017

V.Prathan Babu,
Special Grade Assistant (Retired),
Staff No.83AD1004/83AD104,
Tamil Nadu State Transport Corporation (Kumbakonam), Ltd.,
Kumbakonam Region. ... Petitioner

Vs.

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

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

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

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of declaration declaring the action of the Respondents in computing the gratuity, leave salary payable to the petitioner by taking into account the dearness allowance payable on his basic pay plus grade pay at the rate of 107% instead of 113% as illegal and contrary to the G.O.No.121, Finance (Allowances) Department dated 22.04.2015 issued by the Government of Tamil Nadu 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 113% of pay+Grade Pay as fixed in G.O.No.121, Finance (Allowances) Department dated 22.04.2015 within the time that may be stipulated by this Court.



For Petitioner : Mr.A.Rahul
For Respondents : Mr.D.Sivaraman,
Standing Counsel for TNSTC.

ORDER

WEB COPY This Writ Petition has been filed by the petitioner for issuance of a Writ of declaration, declaring the action of the respondents in computing the gratuity, leave salary payable to the petitioner by taking into account the dearness allowance payable on his basic pay plus grade pay at the rate of 107% instead of 113% as illegal and contrary to the G.O.No.121, Finance (Allowances) Department, dated 22.04.2015, issued by the Government of Tamil Nadu and consequently direct the respondents to compute and pay him, the difference amount in gratuity and leave salary by taking into account revised rate of dearness allowance i.e. at the rate of 113% of basic pay+Grade Pay as fixed in G.O.No.121, Finance (Allowances) Department, dated 22.04.2015, within the time that may be stipulated by this Court.

2.The learned counsel for the petitioner has produced the order passed by this Court in similar circumstances in W.P.No.7938 of 2016, dated 03.07.2016. The learned standing Counsel appearing for the respondents has also admitted that this Court has passed the above order in a similar case.

3.The petitioner was working as a Special Grade Assistant in the first respondent Corporation and retired from service with effect from 28.02.2015. It is contended by the petitioner that a settlement was reached between the employees and the respondents under Section 12(3) of Industrial Dispute Act to the effect that, whenever the Dearness Allowance is increased to the Government employees, the same shall be extended to the Transport Corporation Employees also. It is on this ground that the petitioner claims that he is also entitled to Dearness Allowance in par with government servant. This Court after referring to the Government Order earlier in this regard has passed the following order :

"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 Allowances, which shall be calculated taking the rate of Dearness Allowance as 65% and not as 58%. Therefore, the writ petition is ordered. The respondent 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. No Costs."

4. The petitioner has also brought to the notice of this Court that as per G.O.No.121, Finance (Allowances) Department, dated 22.04.2015, the rate of Dearness Allowance from 01.01.2015 is 113% of the Basic Pay+Grade Pay.

5. Having regard to the facts of the present case, this Court is of the opinion that the petitioner can be given the benefits of the order of this Court passed earlier in the similar cases. Hence, this Court is inclined to allow the Writ Petition with a direction to the respondents to calculate the Dearness Allowance applicable to the petitioner as 113%. Therefore, the respondent shall calculate by taking Dearness Allowance as 113% of the Basic Pay plus Grade Pay and pay the dues / balance to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition is allowed. No Costs.

Sd/-

ASSISTANT REGISTRAR(AS)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

- 1.The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Kumbakonam,
Thanjavur District.
- 2.The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Kumbakonam Region,
Kumbakonam.
- 3.The Administrator,
Tamil Nadu State Transport Corporation
Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai - 2.

+1 CC TO MR.D.SIVARAMAN,ADVOCATE,SR NO.52608

+1 CC TO M/S.A.RAHUL,ADVOCATE,SR NO.52418

cmr/gsp

MAS/KP:02.05.2017:3P-6C