BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.11.2018
CORAM:
THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P.(MD)No.22337 of 2018

K.Thirugnanasambandan ... Petitioner

Vs.

1. The Managing Director,
   Tamil Nadu State Transport Corpn.,(MDU) Ltd.,
   Bye-pass Road,
   Madurai – 625 010.

2. The Financial Adviser,
   Tamil Nadu State Transport Corpn.,(MDU) Ltd.,
   Bye-pass Road,
   Madurai – 625 010.

3. The Administrator,
   TNSTC Employee Pension Trust,
   Thiruvalluvar House,
   No.2, Pallavan Salai,
   Chennai – 600 002.

4. The General Manager,
   Tamil Nadu State Transport Corpn.,(MDU) Ltd.,
   Bye-pass Road,
   Madurai Region,
   Madurai District. ... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to revise the pension benefits and other revised terminal benefits like Gratuity Arrears, Leave Salary Arrears and Pension Arrears, etc., with effect from 01.04.2017 and payment of the monetary benefit with effect from 01.10.2017 to till the date of payment at the rate of 12% per annum payable for the said monetary benefits based on the VII Pay Commission on the base of 251st Board meeting dated 28.08.2018 passed a resolution in Resolution No.58/2018-19, as per the G.O.Ms.No.134, Transport (D) Department, dated 09.04.2018.

For Petitioner : Mr.K.Gokul

For Respondents : Mr.A.Jeyaram
(R1, R2 & R4)

For Respondent No.3 : Mr.A.P.Muthupandian

ORDER

The petitioner has come forward with the present Writ Petition for issuance of a Writ of Mandamus, directing the respondents to revise the pension benefits and other revised terminal benefits like Gratuity Arrears, Leave Salary Arrears and Pension Arrears, etc., with effect from 01.04.2017 and payment of the monetary benefit with effect from 01.10.2017 to till the date of payment at the rate of 12% per annum payable for the said monetary benefits based on the VII Pay Commission on the base of 251st Board meeting dated 28.08.2018, passed a resolution in Resolution No.58/2018-19, as per the G.O.Ms.No.134, Transport (D) Department, dated 09.04.2018.

2. Mr.A.Jeyaram, the learned Standing Counsel takes notice for the respondents 1, 2 & 4. Mr.A.P.Muthupandian, the learned Standing Counsel takes notice for R3.

3. The case of the petitioner is that the petitioner had joined the services in the respondent Corporation, as Junior Steno (Apprentice), on 15.04.1980 and his services have been regularized on 01.04.1984. He retired from the service on 31.03.2017, due to superannuation. Based on G.O.Ms.No.10, Transport Department, dated 02.01.1987, the scales-of-pay of the employees in a Managerial and Supervisory cadre of the State Transport undertakings of the respondent was revised on par with the State Government Servants. In terms of that, the petitioner is entitled to the benefits of 7th Pay Commission, which according to him, has been extended to all the in-service candidates and that the benefits have not been extended to the employees, who have been retired from services. It is his further submission that this Court in an earlier occasion, directed the respondents that monetary benefits should be settled to the retired employees. Hence, the petitioner is entitled to arrears of pay based on 7th Pay Commission revision.

4. Though the respondents have not filed any counter, the learned standing counsels appearing for the respondents would submit that even though the Board has passed the Resolution, for adopting the contents the Government Order, as on date, the the 7th Pay Commission benefits have not been given to any one, much less the in-service employees. As and when a decision is taken and the benefits are extended to the employees, and if the petitioner is eligible, provided the benefits are extended retrospectively, the same would also be extended to him.

5. I have heard the learned counsels appearing on either side and perused the materials available on record.

6. It is not in dispute that the petitioner the petitioner had joined the services in the respondent Corporation and retired from the service on 31.03.2017, due to superannuation. It is also not in dispute that the 7th Pay Commission benefits have not been extended to the petitioner. It is the contention of the respondent that the 7th Pay Commission benefits have not been extended to any one and the petitioner, as a matter of right, cannot be demanded.

7. Admittedly, the benefits of 7th Pay Commission is not applicable to the workmen category and they are governed by Settlement and Award. In case, the benefits of 7th Pay Commission had already been granted to the in-service candidates (workmen category), as stated by the petitioner, the same benefits shall be extended to the others. In my view, as the petitioner is coming under managerial category, the benefits of 7th Pay Commission has got to be extended to the petitioner taking into account any cut-off date for granting the benefits, in case, the petitioner comes within the cut-off date, within a period of two months from the date of receipt of a copy of this order. The arrears shall be paid to the petitioner together with interest at 6% per annum.

8.Accordingly, the Writ Petition is ordered. No costs.

Sd/

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The Managing Director,
Tamil Nadu State Transport Corpn.,(MDU) Ltd.,
Bye-pass Road, Madurai - 625 010.

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4.The General Manager,
Tamil Nadu State Transport Corpn.,(MDU) Ltd.,
Bye-pass Road, Madurai Region,
Madurai District.

+1 CC to Mr.K.Gokul,Advocate,SR.NO.94283

mpk
SS/PM/SAR 3/13.12.2018/3P/6C