

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.1812 of 2013

B.Selvanarayanan

Petitioner

Vs

- 1.The Secretary,
Transport Department
Fort St.George, Chennai-9
- 2.The General Manager,
Tamil Nadu State Transport
Corporation (Tirunelveli) Limited,
Nagercoil
- 3.The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Tirunelveli
- 4.The Administrator,
TNSTC Employees Pension Funds Trust
SETC Campus,
Pallavan Salai
Chennai-2

Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the order of the 4th Respondent, made in Letter No.44/P2/TNSTC EPF Trust/2012-677, dated 18.09.2012 and to quash the same and consequently to direct the 4th Respondent to revise the Petitioner's last pay drawn, which was revised from 01.01.2008 by the 2nd Respondent based on the Government Letter No.7841/C1/2010-4, dated 31.8.2010 and pay difference of pension arrears from 01.09.2008 and pay revised pension as per GO.Ms.No.142 Transport (C1) Department dated, 21.08.2008.

For Petitioner : Ms.Vijaya

For Respondent : Mr.J.Ramesh, AGP-R1
Mrs.Rajeni Ramadoss-RR2 to 4

ORDER

- 1.The prayer in this Writ Petition is to issue a Writ of Certiorarified Mandamus to call for the records relating to the order of the 4th Respondent, made in Letter No.44/P2/TNSTC EPF Trust/2012-677, dated 18.09.2012 and to quash the same and consequently to direct the 4th Respondent to revise the Petitioner's last pay drawn, which was revised from 01.01.2008 by the 2nd Respondent based on the Government Letter No.7841/C1/2010-4, dated 31.08.2010 and to pay the difference of pension arrears from 01.09.2008 and to pay the revised pension as per GO.Ms.No.142 Transport (C1) Department dated, 21.08.2008.
- 2.This court heard the learned counsel on either side and considered their respective submissions and also perused the materials placed on record.
- 3.According to the learned counsel for the Petitioner, the Petitioner was working as the Superintendent in the Respondent Transport Corporation and he was in service as on 01.01.2008. As per GO.Ms.No.250 Finance (BPE) Department, dated 17.06.2009, the scale of pay had been revised with effect from 01.01.2008 and therefore, as per the said GO.Ms.No.250, dated 17.06.2009, the Petitioner is entitled to get the revised scale of pay with effect from 01.01.2008. However, in and by the impugned order, the Respondent Corporation had refused to grant the revised scale of pay on the ground that the Petitioner had retired from the service prior to the date of the said Government Order. Hence, this Writ Petition has been filed.
- 4.On the other hand, the Respondents had supported the impugned order, by filing a counter, contending that as per GO.Ms.No.250 Finance (BPE) Department, dated 17.06.2009, scale of pay was allowed with effect from 01.01.2008 and that the revised scale of pay pursuant to the VI Pay Commission will take effect from the date of issuance of the said Government Order, i.e. 17.06.2009, which was also clarified in the subsequent Letter No.7841/C1/2010-4, dated 31.08.2010 of the Respondent Corporation and that since the Petitioner had retired from service on 31.8.2008, the Petitioner is not entitled to get the revised scale of pay and hence, the impugned order, refusing to grant the revised scale of pay is perfectly valid.
- 5.In order to allow or otherwise the claim of the Petitioner, it is relevant to refer to the relevant portions of the said GO.Ms.No.250 Finance (BPE) Department, dated 17.06.2009 and the subsequent clarification Letter No.7841/C1/2010-4, dated 31.08.2010 as under.

6.Paragraph 2(ix) of the said Government Order, dated 17.06.2009 is relevant and it reads as under:-

"(ix) In respect of Technical and Administrative Supervisory category in Transport Corporations for whom Government scale of pay were allowed with effect from 01.01.2008, the revised scale of pay as per G.O. second read above will take effect from the date of issue of this order. As regards the Health Allowance for Managerial Cadre employees of State Transport Undertakings, Transport Department may examine the case in consultation with Finance Department and issue separate orders."

7.Paragraph 2 of the said letter dated 31.8.2010 is relevant and it reads as under:-

"2. Following the representation made vide reference 5th cited the Government have decided to introduce the new scales of pay of Rs.7000-11500 and Rs.7500-12000 in the pre revised scales with effect from 01.01.2008 to the Superintendents and Senior Superintendents of State Transport Undertakings, respectively as follows:-

i.Though the Technical/Administrative Supervisory employees of State Transport Undertakings have been brought into Government pattern of scales with effect from 01.01.2008 as per the orders issued in GO(Rt) No.142, Transport Department, dated 21.8.2008, yet the revised pay scale (notified in GO.Ms.No.250/Finance (BPE) Department, dated 17.06.2009, have been given effect to them from 17.06.2009.

ii.It is clarified that the pre-revised scales of pay of Rs.7000-11500 and 7500-12000 are notionally allowed to Administrative Supervisory employees i.e. Superintendents and Senior Superintendents from 1.1.208 to 16.6.2009 (without monetary benefit) and then the revised scale of pay of Rs.9300-34800+Grade pay of Rs.4800 and Rs.4900 respectively are allowed to them on 17.6.2009.

iii.The monetary effect of Pay Commission has been given to this category of staff only with effect from 17.6.2009 and there will be no question of payment of arrears."

8.As per the said GO.Ms.No.250 Finance (BPE) Department, dated 17.06.2009 and the subsequent clarification Letter

No.7841/C1/2010-4, dated 31.08.2010, the revised scale of pay will be given effect from the date of the said Government Order, i.e. 17.09.2009. Admittedly, the Writ Petitioner had retired from service prior to the date of the said Government Order, i.e. in the year 2008 itself. Further, the Petitioner has not challenged the said Government Order. Therefore, in the opinion of this Court, the claim of the Petitioner is unfounded and the same is liable to be rejected.

9.In the result, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Srcm

To

- 1.The Secretary, Transport Department,
Fort St.George, Chennai-9
- 2.The General Manager,
Tamil Nadu State Transport Corporation (Tirunelveli) Limited,
Nagercoil
- 3.The Managing Director,
Tamil Nadu State Transport Corporation Limited, Tirunelveli
- 4.The Admnistrator,
TNSTC Employees Pension Funds Trust SETC Campus, Pallavan
Salai, Chennai-2.

+lcc to Mr.S.Rajeni Ramadoss, Advocate, S.R.No. 105763

+lcc to Mr.Vijay & Ananth, Advocate, S.R.No. 105247

+lcc to the Government Pleader, S.R.No. 106290

BS(CO)
GN(03/02/2020)

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