



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2019

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Rev.Application.No.178 of 2019

in

W.P. (MD) .No.1776 of 2019

and

W.M.P. (MD) .No.23419 of 2019

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Madurai Region, Corporate Office,
Madurai-10.

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

.. Review Petitioners/Respondents
Vs.

1. S.Rajaram
Traffi Inspector - Retired,
(Staff No.CI 02621),
CAS Nagar, V.O.C., 1st Street,
Nehru Cross Street, Plot No.15,
Avaniyapuram,
Madurai- 625 012.

.. 1st Respondent/Petitioner

2.The Additional Chief Secretary to Government,
Transport Department and The Chairman of
All State Transport Corporations,
Secretariat,
Chennai - 9.

.. 2nd Respondent/ 1st Respondent

Prayer: Petition filed under Order 47 Rule 1 & 2 r/w section 114 of the Civil Procedure Code, praying to review the order dated 30.01.2019, in W.P.(MD).No.1776 of 2019.

Prayer in WP(MD)No.1776 of 2019

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to sanction pay arrears with effect from 01.05.2012 and to sanction pension arrears with effect from 31.05.2014 being the date of retirement and to pay the difference amount of retirement benefits based on the revised scale of pay along with 18% interest as agreed by the second respondent in his order dated 07.06.2016.



For Petitioners : Mr.J.Senthil Kumaraiah,
For R2 : Mr.N.Shanmuga Selvam
Additional Government Pleader
For R1 : M/S.D.Ramya

JUDGMENT

This review application has been filed by the Tamilnadu State Transport Corporation seeking to review the order, dated 30.01.2019, in W.P.(MD).No.1776 of 2019.

2. The prayer in the writ petition reads as follows:

"For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or orders or directions in the nature of writ directing the Respondents to sanction Pay arrears with effect from 01.05.2012 and to sanction Pension arrears with effect from 31.05.2014 being the date of retirement and to pay the difference amount of retirement benefits based on the revised scale of pay along with 18% interest as agreed by the 2nd respondent in his order, dated 07.06.2016 and to pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice."

3. Even prior to the filing of the present writ petition, the petitioner had filed W.P.(MD).No.1029 of 2016, seeking a mandamus directing the second and third respondents to pass orders on his representation, dated 30.11.2015 in the light of G.O.Ms.No.61, Transport (C) Department, dated 30.04.2015 and in terms of the settlement under Section 12(3) of the Industrial Disputes Act, dated 22.01.2011. The following order was passed by this Court in the said writ petition on 19.01.2016.

"The writ petition is disposed of directing the second and third respondents to pass orders on the representation of the petitioner, dated 30.11.2015 in the light of the G.O.Ms.No.61 Transport (C) Department, dated 30.04.2015 and in terms of settlement, dated 22.01.2011 entered into under Section 12(3) of the Industrial Disputes Act."

4. Pursuant to the said direction, the request of the first respondent herein was considered by the review petitioners and it was stated that the review petitioner would be entitled to 5th review benefits from 01.05.2012. Claiming that the said order, dated 07.06.2016 has not been complied with, the petitioner has come up with the present writ petition in W.P.(MD).No.1776 of 2019. The said writ petition was disposed of by me on 30.01.2019 with the following directions:

"The petitioner seeks a writ of mandamus directing the respondents to sanction pay arrears with effect from 01.05.2012 and pension arrears with effect from



31.05.2014 on the basis of the order passed by the second respondent on 07.06.2016.

2.The second respondent has concluded that the petitioner is entitled to the benefits of the settlement entered into under Section 12(3) of the Industrial Disputes Act between the Management and the workers.

3.In view of the same, the writ petition is disposed of with a direction to the respondents to sanction pay arrears with effect from 01.05.2012 and pension arrears with effect from 31.05.2014 by considering the representation of the petitioner dated 19.11.2018, within a period of six weeks from the date of receipt of a copy of this order. The amounts that may be found eligible, shall be paid within a period of six weeks thereafter. No Costs."

5. Complaining that the said order, dated 30.01.2019 has not been complied with, the first respondent herein has filed contempt petition in Cont.P.(MD).No.943 of 2019. After filing of the contempt petition, the respondent corporation has come up with this review petition. The only claim made in the review petition is that there was a settlement under Section 12(3) of the Industrial Disputes Act entered into on 04.01.2018 in and by which it was agreed between the Corporation and the representatives of the workmen that the pay revision granted to Traffic Inspectors and other similarly placed persons would be notionally fixed from 01.09.2010 and actual benefits will be paid from the date of administrative sanction. For those, who had retired, the provident fund contribution payable to the pension trust alone will be paid by the corporation. Claiming that as per settlement under Section 12(3) of the Industrial Disputes Act, dated 04.01.2018, the respondent in the review petition would not be entitled to claim salary based on the 5th review, the petitioner corporation has come up with this review application.

6. I have heard Mr.J.Senthil Kumaraiah, learned counsel for the Corporation and Ms.D.Ramya, learned counsel for the first respondent/workman.

7. Mr.J.Senthil Kumaraiah, learned counsel for the corporation would contend that in view of the settlement under Section 12(3) of the Industrial Disputes Act, reached on 04.01.2018, the petitioner cannot claim arrears of salary based on G.O.MS.No.61 Transport (C) Department, dated dated 30.04.2015.

8. I have considered his submissions.

9. The settlement under Section 12(3) of the Industrial Disputes Act, dated 04.01.2018, clearly states that it will come
<https://hcservices.ecourts.gov.in/hcservices/>



into force on 01.09.2016 and it is valid till 30.01.2019. Admittedly, the first respondent employee has retired in the year 2014 and therefore, the present 12(3) settlement dated 04.01.2018 would not affect his rights that accrued to him under the earlier settlement, dated 21.02.2014. In fact, while disposing of the representation of the petitioner pursuant to the orders of this Court made in W.P.(MD).No.1029 of 2016, the respondent corporation had conceded that the workmen would be entitled to the benefits of the settlement under Section 12(3) of the Industrial Disputes Act, dated 12.01.2011 and had acknowledged the entitlement of the petitioner to 5th review benefits from 01.05.2012. I therefore, find no substance in the claim of the petitioner that in view of the settlement under Section 12(3) of the Industrial Disputes Act entered into, after the retirement of the employee, his position will be altered. I therefore seen no grounds to entertain the review petition and the review petition fails and accordingly it is dismissed.

10. In view of the dismissal of the review petition, W.M.P. (MD).No.23419 of 2019 stands closed.

Sd/-

Assistant Registrar (CO)

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/ /2020

Sub Assistant Registrar(CS)

PJL

To

The Additional Chief Secretary to Government,
Transport Department and The Chairman of
All State Transport Corporations,
Secretariat, Chennai - 9.

+1CC to M/S.D.Ramya, Advocate, Sr.No.105879

+1cc to Mr.J.Senthil Kumariah, Advocate, Sr.No.106426

Rev.Application.No.178 of 2019

in

W.P. (MD) .No.1776 of 2019

19.12.2019

SMA/21/01/2020/4P/4C