



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **20.03.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

WP (MD) No.22402 of 2017

B.Ashok Mahadev

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Commissioner and Secretary,
Transport Department,
Fort St George,
Chennai.

2.The Government of Tamil Nadu,
Represented by its Secretary,
Finance Department,
Fort St George,
Chennai.

3.The Principal Accountant General,
Accounts and Entitlements,
361, Anna Salai,
Chennai - 600 0018.

4.The Managing Director,
TNSTC Department,
Nesamani Nagar,
Rani Thottam,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to implement the order of the Hon'ble Apex Court in SLP.No.19016 of 2008 dated 07.02.2013 and order in SLA.(C). No.10152 of 2016 on 04.04.2016 and G.O.Ms.(3D)No.21 Transport (RW1) Department dated 06.05.2016 and on the basis of their own undertaking given before the Hon'ble Division Bench Contempt Application Nos.290 to 292 of 2015 dated 24.02.2015 by refixing and remitting the petitioner's pension, arrears with emoluments and with interest at the rate of 18% per annum in his pension pass book order No.C380924/TPT Huzur, Nagercoil.

For Petitioner : Mr.M.Joseph Thatheus Jerom

<https://hcservices.ecourts.gov.in/> For Respondent
Nos.1 & 2

: Mr.V.Anand,
Government Advocate



For Respondent : Mr.P.Gunasekaran
No.3

For Respondent : Mr.K.Sathiyasingh
No.4

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ORDER

This writ petition has been filed seeking to direct the respondents 1 to 3 to implement the order of the Hon'ble Apex Court in SLP.No.19016 of 2008 dated 07.02.2013 and order in SLA.(C).No.10152 of 2016 on 04.04.2016 and G.O.Ms.(3D)No.21 Transport (RW1) Department dated 06.05.2016 and on the basis of their own undertaking given before the Hon'ble Division Bench in Contempt Application Nos.290 to 292 of 2015 dated 24.02.2015 by refixing and paying the petitioner's pension, arrears with emoluments and with interest at the rate of 18% per annum to him.

2.The learned Counsel for the petitioner submitted that the issue involved in this writ petition has already been settled by this Court in WP(MD)No.19921 of 2017 Batch, dated 24.01.2018 [S.Chorimuthu Vs The Government of Tamil Nadu and 3 others] and prayed for a similar relief in this writ petition also and the relevant portion whereof reads thus:

"6.This writ petition was filed way back in the year 2017. Till date, the respondents have not been in a position to rebut the aforesaid assertions made by the writ petitioners. Therefore, this Court has to proceed on the footing that the writ petitioners did not exercise any option for availing the commutation benefit. Therefore, their request for re-fixation and payment of arrears, in the light of the order of the Hon'ble Supreme Court in SLP.No.19016 of 2008 dated 07.02.2013 will have to be necessarily accepted. The respondents are directed to refix the pension of the writ petitioners accordingly and disburse the pensionary benefits within a period of four months from the date of receipt of a copy of this order.

7.The learned counsel appearing for the writ petitioners on instructions foregoes the claim for any interest. The learned Special Government Pleader as well as the other counsel submitted that they are not in a position to trace out the relevant documents. The writ petitioners had retired almost 25 years ago. Therefore, they are not in a position to maintain the records. This is because of this difficulty that they are not in a position to meet the averments set out in the writ petitions. The learned counsel would also



contend that the writ petitions deserve to be dismissed on the ground of laches. This Court is unable to agree with the said contention. The writ petitioners were the employees of the respective transport corporations. They are still getting pension. Therefore, the stand of the respondents that the records are not available cannot be accepted".

3.The learned Counsel appearing for the respective respondents have no serious objection to the above submission.

4.In view of the above submissions made on either side and also taking note of the orders cited supra, the respondents are directed to refix the pension of the writ petitioners in the light of the order of the Hon'ble Supreme Court in SLP.No.19016 of 2008 dated 07.02.2013 and disburse the pensionary benefits, within a period of four months from the date of receipt of a copy of this order.

5.Accordingly, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

Dsk

To

- 1.The Commissioner and Secretary to Govt of Tamil Nadu,
Transport Department,
Fort St George, Chennai.
- 2.The Secretary to Govt of Tamil Nadu,
Finance Department,
Fort St George, Chennai.
- 3.The Principal Accountant General,
Accounts and Entitlements,
361, Anna Salai,
Chennai - 600 0018.



4.The Managing Director,
TNSTC Department,
Nesamani Nagar,
Rani Thottam, Nagercoil,
Kanyakumari District.

+1CC TO MR.M.JOSEPH THATHEUS JEROME, Advocate Sr. No.55510
+1CC TO MR.P.GUNASEKARAN, Advocate Sr. No.55453
+1CC TO MR.K.SATHIYA SINGH, Advocate Sr. No. 55725
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 55653

ORDER MADE IN
WP (MD) No. 22402 of 2017
20.03.2019

TR (29.04.2019) 4P 9C