



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

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W.A. (MD) Nos.1122 to 1127 and 475 of 2019

and

C.M.P. (MD) No.3996, 4314, 9997, 10000, 10003, 10007, 10010, 10012 of 2019

W.A. (MD) No.1122 of 2019:-

- 1.The Tamil Nadu State Transport Corporation Ltd.,
Represented by its Managing Director,
Madurai Division,
Bye-Pass Road, Madurai-16.
- 2.The Financial Adviser and Chief Accounts Officer,
Tamil Nadu State Transport Corporation Ltd.,
Madurai Division,
Bye-Pass Road, Madurai-16.
- 3.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust, Thiruvalluvar Illam,
Pallavan Salai,
Chennai-2. ... Appellants/Respondents 2 to 4

1. The Managing Director,
Tamil Nadu State Transport Corporation (Mdu) Ltd.,
Bye-Pass Road, Madurai-625 010.
2. The Financial Adviser,
Tnsc (Mdu) Ltd., Bye-Pass Road,
Madurai-625 010.
3. The Administrator,
Tnsc Employees Pension Trust,
Tiruvalluvar House, No.2, Pallavan Salai,
Chennai-600 002.
4. The General Manager,
Tnsc (Mdu) Ltd., Bye-Pass Road,
Dindigul Region, Dindigul District
... Appellants/Respondents (in WA(MD). 475/ 2019)



Vs.

1.D.S.Vincent ... 1st Respondent/Petitioner (in WA(MD).1122 of 2019)
N.Nagendran ... 1st Respondent/Petitioner (in WA(MD).1123 of 2019)
A.Venkatachalam.. 1st Respondent/Petitioner (in WA(MD).1124 of 2019)
K.Muruganand ... 1st Respondent/Petitioner (in WA(MD).1125 of 2019)
P.Gandhi ... 1st Respondent/Petitioner (in WA(MD).1126 of 2019)
D.Meenakshisundaram ... 1st Respondent/Petitioner
(in WA(MD).1127 of 2019)

2.The Additional chief Secretary,
Secretary to Government, Transport Department,
Fort.St.George, Secretariat,
Chennai-9. ... 2nd Respondent/1st Respondent
(in WA(MD).1122 to 1124 of 2019)

P.Rajendran, ... Respondent/Petitioner (in WA(MD).475 of 2019)

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to set aside the order dated 04.01.2019, 23/10/2018 passed in W.P.(MD)No.213 to 215, 406,776,777 of 2019 & 21025 of 2018 on the file of this Court.

Prayer in W.P.(MD)No.213 to 215, 406,776,777 of 2019:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to revise the petitioners Pay Notionally with effect from 01.01.2016 and to revise his pension and other terminal benefits payable to him with effect from 01.10.2017 and also direct to pay the difference in terminal benefits such as Gratuity, Commutation and Leave Salary etc. and also pension arrears with effect from 01.10.2017 together with interest at the rate of 12% per annum payable to him to till the date of payment of the said monetary benefits based on the 251st and 25th and Board meeting held on 28/08/2018 and passed a resolution in Resolution No.58/2018-2019, as per the G.O.Ms.No.134 Transport (D) Department dated 09/04/2018 within the stipulated time.

Prayer in WP(MD). 21025 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to revised pension benefits and other revised terminal benefits like Gratuity Arrears, Leave Salary Arrears and Pension Arrears, etc with interest at the rate of 12% per Annum payable from the date of retirement of the petitioner to till the date of payment of the said monetary benefit based on the VII Pay Commission on the base of 251st Board meeting dated 28.08.2018 passed a resolution in Resolution No.58/2018-2019, as per the



G.O.Ms.No.134 Transport(D) Department dated 09/04/2018.

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For Appellants	: Mr.J.Senthilkkumariah
For Respondent	: Mr.A.Rahul (in W.A. (MD) Nos.1122 to 1127/19)
For Appellants	: Mrs.S.Srimathy Special Government Pleader
For Respondent	: Mr.K.Gokul (in W.A. (MD) No.475 of 2019)

COMMON JUDGMENT

[Judgment of this Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.J.Senthilkkumariah, learned counsel for the appellants and Mr.A.Rahul, learned counsel for the respondents in W.A.(MD)Nos.1122 to 1127 of 2019, Mrs.S.Srimathy, learned Special Government Pleader for the appellants and Mr.K.Gokul, learned counsel for the respondent in W.A.(MD)No.475 of 2019. By consent on either side, these writ appeals are taken up for final disposal.

2. These appeals in W.P.(MD)Nos.1122 to 1127 of 2019 have been preferred against the common order in W.P.(MD)No.213 of 2019 etc., batch filed by the respondents. The respondents / writ petitioners worked as Managing Director of the State Transport Corporation and retired from the service on attaining age of superannuation. They filed writ petitions praying direction upon the appellants to revise their pay with effect from 10.10.2017 to 31.10.2017 and to pay the difference in gratuity, difference in earned leave salary, difference in commutation and difference in pension with interest at the rate of 18% per annum in terms of 7th pay commission recommendations for revision of pay as per G.O.Ms.No.134, Transport (D) Department, dated 09.04.2018. The writ petitions were allowed following the earlier decision of the learned Single Bench made in W.P.(MD)No.22337 of 2018.

3. Mrs.S.Srimathy, learned Special Government Pleader submitted that as against the said order in W.P.(MD)No.22337 of 2018, the Transport Corporation has preferred an appeal in W.A.(MD) No.475 of 2019 and the matter is pending before this Court. Since the above writ appeal is the main appeal, we have directed the Registry to tag the said appeal along with these appeals.

4. It cannot be necessary for us to adjudicate the correctness of the orders passed in the writ petitions in the light of the subsequent development. However, we make it clear that this judgment will not in any manner impede the rights of the respondents / writ petitioners to workout their remedies, since the benefit now



granted by the Government in G.O.Ms.No.142, Transport (E) Department, dated 26.08.2019 is not fully in favour of the respondents / writ petitioner as monitory benefits has been directed to be given prospectively that would mean that from the date of issuance of the Government Order i.e., from 26.08.2019.

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5. Further, the respondents / writ petitioners are also aggrieved by the directions issued in the Government Order that the dearness allowance at the present rate shall be computed without any change. It is submitted by the learned counsel for the writ petitioners that there is a condition in the Government Order, directing that the persons those who are retired between 01.09.2016 and 31.12.2017 will be given revision of pension with notional effect from 01.09.2016 and with monetary benefit prospectively. However, their prayer was to grant monetary benefit retrospectively. Apart from that, they have also claimed that the dearness allowance cannot be frozen as done in the Government Order.

6. The learned Special Government Pleader appearing for the appellant Transport Corporation in W.A.(MD)No.475 of 2019 submitted that the Government Order gives sufficient benefits to the respondents / writ petitioners and as on date the said Government Order having been passed, it shall govern the subject matter. For better appreciation, the Government Order is quoted herein below:-

Abstract

Transport - Implementation of Revision to the retired employees of State Transport Undertakings - Official Committee recommendations -Orders - issued.

Transport (E) Department

G.O.Ms.No.142

Dated 26.08.2019

Vikari Aandu

Avani 9,

Thiruvalluvaraandu, 2050

Read:

1.G.O.(Rt)No.32, Transport (E) Department, dated 12.02.2019.

2.G.O.(Rt)No.83, Transport (E) Department, dated 15.04.2019

3.From the Administrator, Tamil Nadu State Transport Corporation Employees Pension Fund Trust Lr.No.SPL/COMMITTEE/TNSTC/EPFT/2019-16, dated 15.04.2019.

4.Govt. Lr.No.16006/E/2017, dated 03.05.2019.

5.From the Administrator, Tamil Nadu State Transport Corporation Employees Pension Fund Trust Lr.No. 172/P2/Com/TNSTC/EPFT/2019, dated 07.05.2019.

6.G.O.(Ms)No.313, Finance (Pay Cell) Department, dated 25.10.2017.



7.G.O.(Ms)No.333, Finance (BPE) Department,
dated 09.11.2017.

ORDER:

In the Government Order first read above orders have been issued to form an official committee in order to examine the various issues of the pensioners of State Transport Undertakings with a request to submit its report to Government.

2. The Administrator, Tamil Nadu State Transport Corporation Employees Pension Fund Trust in his letter third read above has forwarded the recommendations of the committee for consideration of the Government. The Committee has recommended to implement the 13th Wage Settlement in respect of those who have retired from 01.09.2016 to 31.12.2017 and also to implement the 7th Pay Commission to the Transport employees who have retired during 01.01.2016 to 31.03.2018.

3. After careful examination, the Government have decided to accept the proposal of the Administrator, Tamil Nadu State Transport Corporation Employees Pension Fund Trust, based on the recommendations of the Official Committee and order as follows:-

(a) Implement the revision of pension to the pensioners who are covered under 13th Wage Settlement [for those who have retired between 01.09.2016 and 31.12.2017] with notional effect from 01.09.2016 and with monetary benefit prospectively.

(b) Implement the revision of pension as per 7th Pay Commission to the Pensioners [for those who have retired between 01.01.2016 and 31.03.2018] with notional effect from 01.01.2016 and with monetary benefit prospectively.

(c) Dearness Allowance at present rates shall be continued without any change.

(d) The entire financial commitment likely to arise on such revision shall incurred by the Tamil Nadu State Transport Corporation Employees Pension Fund Trust without seeking any financial assistance, in any form, from the Government.

4. This order issues with the concurrence of Finance (BPE) Department vide its U.O.No.42865/Fin(BPE)/2019, dated 26.08.2019.

(BY ORDER OF THE GOVERNOR)

DR.J.RADHAKRISHNAN
PRINCIPAL SECRETARY TO GOVERNMENT"

7. It is submitted by the learned counsel for the respondents/ writ petitioners that the respondent will fall within the category in paragraph 3(b) of the Government Order, whereby the Government directed implementation of the revised pension as per



the seventh pay commission to the pensioners, those who have retired between 01.01.2016 and 31.03.2018 with notional effect from 01.01.2016 and with monetary benefits prospectively. The dearness allowance has also been frozen at the present rates.

8. In our considered view, the reasonable approach for the respondents / writ petitioners to take is to accept the directions issued in the Government Order and obtain monetary benefits prospectively with liberty to question that portion of the Government Order, which is not beneficiary and prejudicial to the respondents / writ petitioners. There appears to be no serious objection for such course being adopted by the respondents / writ petitioners. In the light of the above, these writ appeals are partly allowed and the directions issued in the writ petitions are set aside and modified as follows:-

(a) The appellants are directed to give effect to the Government Order in G.O.Ms.No.142, Transport (E) Department, dated 26.08.2019 and extend the benefits granted by the Government in paragraph 3(b) of the Government Order, pay monetary benefits prospectively within a period of twelve weeks from the date of receipt of a copy of this order.

(b) We make it clear that acceptance of the payments by the respondents / writ petitioners shall be without prejudice to their rights to question that portion of the Government Order, which according to them are prejudicial to the interest and such other matter as they deem appropriate to adjudicate.

No costs. Consequently connected miscellaneous petitions are allowed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

Ta

TO

1.The Additional chief Secretary,
Secretary to Government, Transport Department,
Fort.St.George, Secretariat, Chennai-9.

+1CC TO MR.J.SENTHIL KUMARAI AH, Advocate Sr. No.98572

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 99045

ORDER MADE IN

W.A. (MD) No.1122 of 2019 etc., batch

14.11.2019

NA (CO)

TR(05.12.2019) 6P 4C

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