

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.17996 of 2013

- 1.K.Namasivayam (Deceased)
- 2.N.Lakshmi
- 3.N.Usha Rani
- 4.N.Kharthikkeyhan

(P2 to P4 substituted as LRs of deceased sole petitioner vide order dated 18.09.2020 made in W.M.P.No.15884 of 2020 in W.P.No.17996 of 2013 by MDIJ) ... Petitioners

Vs.

- 1.Tamilnadu State Transport Corporation (Villupuram) Ltd.,
Rep. by its Managing Director,
Vazhudareddy,
Villupuram - 605 602.

- 2.The General Manager,
Tamilnadu State Transport Corporation (Villupuram) Ltd.,
Kancheepuram Region,
Kancheepuram. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 26.04.2007 passed by the first respondent in Se.Mu.Aa.No.10178/Oo.No.1/TNSTC (V)/2007, quash the same in so far as fixing the petitioner's basic pay at Rs.8000 in the scale of pay of Rs.8000-275-13500 instead of fixing the petitioner's basic pay at the next higher stage and at least protecting his basic pay of Rs.10200 which he was getting prior to his promotion to the post of Assistant Manager and consequently direct the respondents to fix his basic pay at the next higher stage to the basic pay which he was getting in the post of Selection Grade Assistant Engineer with effect from the date of promotion to the post of Assistant Manager with arrears and all other consequential benefits and also to pay him the revised terminal benefits based on such revised pay together

with interest at the rate of 12% per annum.

For Petitioners : Mr.V.Ajoy Khose
For Respondents : Mr.C.S.K.Sathish

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 26.04.2007 passed by the first respondent in Se.Mu.Aa.No.10178/Oo.No.1/TNSTC (V)/2007, to quash the same in so far as fixing the petitioner's basic pay at Rs.8000 in the scale of pay of Rs.2000-275-13500 instead of fixing the petitioner's basic pay at the next higher stage and at least protecting his basic pay of Rs.10200 which he was getting prior to his promotion to the post of Assistant Manager and to consequently direct the respondents to fix his basic pay at the next higher stage to the basic pay which he was getting in the post of Selection Grade Assistant Engineer with effect from the date of promotion to the post of Assistant Manager with arrears and all other consequential benefits and also to pay him the revised terminal benefits based on such revised pay together with interest at the rate of 12% per annum.

2.Since the petitioner who filed this writ petition has passed away, his legal representatives have been substituted as petitioners 2 to 4 in this writ petition.

3.The case of the deceased petitioner is that the petitioner joined the services of the erstwhile Thanthai Periyar Transport Corporation as a Supervisor Trainee on 29.05.1980 and was appointed as Assistant Supervisor during the year 1981. The petitioner was thereafter promoted as Junior Engineer (Mechanical) during the year 1983 and was further promoted as Assistant Engineer during the year 1989. Thereafter, when Puratchi Thalaivar MGR Transport Corporation was formed during the year 1992, the petitioner was transferred and absorbed in the said new Corporation. Thereafter, after several promotions, the petitioner was promoted to the post of Assistant Manager during the year 2007. At that time, though the petitioner was drawing basic pay of Rs.10,200/-, while fixing his pay in the promotional post, his basic pay was fixed at Rs.8,000/-, i.e., at the bottom of the time scale of pay. The petitioner made several representations to the respondents seeking to rectify the above illegality and pay anomaly in pay fixation, however, there was no response. Hence, this writ petition.

4.The learned counsel appearing for the petitioners would submit that the deceased petitioner was entitled to higher pay than the pay which he was receiving in the lower post, however, even if he was not given higher or increased pay upon promotion,

he should have been at least given the same pay, which he was getting prior to his promotion. Hence, the impugned order is un-sustainable one.

5.The learned counsel appearing for the petitioners would further submit that as per Rule No.37 (4) of the Common Service Rules, an employee in the service of the respondent Corporation who is selected for appointment by direct recruitment to another post in the service of the Corporation is eligible to the protection of pay drawn at the time of such appointment, if his pay in the former post is higher than the minimum of the scale in the new post, by fixing his pay at the same rate if there is a corresponding stage in the scale attached to the new post or at the next higher stage, if there is no such corresponding stage.

6.The learned counsel appearing for the petitioners would further submit that though the writ petition has been filed for a larger relief, without going into the merits of the case, this Court may issue direction to the respondents to consider the representation made by the deceased petitioner dated 15.04.2013 in terms of Rule No.37 of the Common Service Rules and to pass appropriate orders on the same, within a reasonable time frame, so as to enable his legal representatives, namely, petitioners 2 to 4, to receive the eligible benefits due to him.

7.Though the respondents have filed counter affidavit, the learned counsel appearing for the respondents raise no serious objection for the respondents considering the representation made by the deceased petitioner dated 15.04.2013, in accordance with law.

8.In view of the above, this Court directs the respondents to consider the representation made by the deceased petitioner namely, the first petitioner dated 15.04.2013, on merits and in accordance with law, especially, in terms of Rule No.37 of the Common Service Rules and to pass appropriate orders, within a period of twelve weeks from the date of receipt of a copy of this order.

9.The writ petition is accordingly disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.Tamilnadu State Transport
Corporation (Villupuram) Ltd.,
Rep. by its Managing Director,
Vazhudareddy,
Villupuram - 605 602.

2.The General Manager,
Tamilnadu State Transport
Corporation (Villupuram) Ltd.,
Kancheepuram Region,
Kancheepuram.

+1cc to Mr.V.Ajoy Khose, Advocate, S.R.No. 40529

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GN(22/01/2021)



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