



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2020

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THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P(MD)No.4356 of 2020

P.Venugopal

.. Petitioner

Vs.

1.The Managing Director,
Tamilnadu State Transport Corpn. (KMB) Ltd.,
New Railway Station Road,
Kumbakonam - 612 001.

2.The General Manager,
Tamilnadu State Transport Corpn. (KMB) Ltd.,
Karaikudi Region,
Mardhupathi, Managiri Post,
Karaikudi, Sivagangai District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to pay the petitioner's arrears of wages payable for the period from 01.01.2019 to 30.06.2019 together with 18% percent interest p.a. after correctly arriving at the monthly wages by taking note of the enhanced rate of dearness allowance as ordered/fixed for the period from 01.01.2019 to 30.06.2019 and also to revise terminal benefits, namely gratuity, encashment of earned leaves and commutation based on such wages payable to the petitioner on the month of the petitioner's retirement i.e., January 2019 and accordingly to pay the petitioner balance/arrears of gratuity, encashment of earned leaves and commutation together with 18% percent interest p.a. within a time frame fixed by this Court and pass such further or other orders.

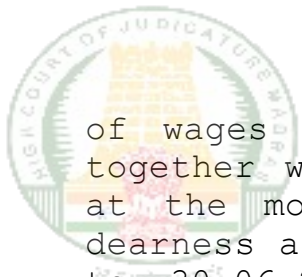
For Petitioner : Mr.K.Gokul

For Respondents : Mr.P.Balasubramanian

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus to direct the respondents to pay the petitioner's arrears

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of wages payable for the period from 01.01.2019 to 30.06.2019 together with 18% percent interest p.a. after correctly arriving at the monthly wages by taking note of the enhanced rate of dearness allowance as ordered/fixed for the period from 01.01.2019 to 30.06.2019 and also to revise terminal benefits, namely, gratuity, encashment of earned leaves and commutation based on such wages payable to the petitioner on the month of the petitioner's retirement i.e., January 2019 and accordingly to pay the petitioner balance/arrears of gratuity, encashment of earned leaves and commutation together with 18% percent interest p.a.

2.Mr.P.Balasubramanian, learned counsel takes notice for the respondent. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.The case of the petitioner is that the petitioner was appointed as Conductor in the respondent Corporation on 15.06.1988 and he retired as Checking Inspector on 31.01.2019 on account of superannuation. According to the petitioner, dearness allowance is determined based on the increase in the cost of living and the rate of it, is fixed by the Central Government as well as the State Government for every six months. Following the announcements of Central Government as to the rate of dearness allowances to its employees, the Government of Tamil Nadu is also announcing the same to its employees. The announcement of the same is not done on the 1st month after commencement of the period, but on the other hand, it is only announced only on a later date and the payment of the dearness allowances, is always ordered to be paid from the first date of the period.

4.According to the petitioner, the Government of Tamilnadu, revised/enhanced the rate of dearness allowances for the period of 6 months from 01.01.2019 to 30.06.2019 and accordingly, the respondents also paid the wages to the employees based on the abovesaid increased dearness allowances fixed for the said period.

5.The petitioner further submits that though he was retired on 31.01.2019, he was given wages for the month of January, 2019, based on the dearness allowance fixed for the earlier period i.e., from 01.07.2018 to 31.12.2018 and not based on the dearness allowance fixed for the period from 01.01.2019 to 30.06.2019, as it has been enhanced on the later date and given effect to by the respondent only in the month of May, 2019. As he is entitled to get arrears of wages for the period from 01.01.2019 to 31.01.2019 and his retirement benefits, namely gratuity, leave salary and pension are determined only based on the monthly wages payable to him in the month of his retirement, he made a representation dated 18.12.2019 to the respondent, seeking to grant the arrears and to



same has not been considered so far. Therefore, the petitioner has come up before this Court with the present writ petition.

6. Though the learned counsel for the petitioner has sought for a larger relief, he restricted the prayer to consider the representation of the petitioner, dated 18.12.2019.

7. Considering the limited scope of prayer sought for, this Court without going into the merits of the petitioner's claim, directs the 2nd respondent to consider the representation of the petitioner, dated 18.12.2019 and pass orders on merits and in accordance with law, within a period of eight (8) weeks from the date of receipt of a copy of this order. While sending the copy of this order, the petitioner shall enclose the copy of the representation, dated 18.12.2019, to the 2nd respondent.

8. With the above directions, this Writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Managing Director,
Tamilnadu State Transport Corpn. (KMB) Ltd.,
New Railway Station Road, Kumbakonam - 612 001.

2. The General Manager,
Tamilnadu State Transport Corpn. (KMB) Ltd.,
Karaikudi Region, Mardhupathi, Managiri Post,
Karaikudi, Sivagangai District.

+1 CC to M/s.K.GOKUL, Advocate (SR-9558[F] dated 02/03/2020)

+1 CC to M/s.P.BALA SUBRAMANIAN, Advocate (SR-9598[F] dated 02/03/2020)

**ORDER MADE IN
W.P(MD)No.4356 of 2020
02.03.2020**

TR(10.03.2020)3P 5C