



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **11.03.2020**

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

W.P(MD)No.5145 of 2020

S.Subramaniyan

.. Petitioner

Vs.

The Management of
Tamilnadu State Transport Corporation (Kumbakonam) Ltd.,
Trichy Region,
rep. by its General Manager,
Trichy.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to revise the terminal benefits of the petitioner, namely gratuity and encashment of 240 days earned leaves based on such wages payable to him on the month of his retirement i.e., April, 2014, after correctly arriving the same by taking note of the enhanced rate of dearness allowance as ordered/fixed for the period from 01.01.2014 to 30.06.2014 in the G.O.No.96, Finance (Allowances) Department dated 03.04.2014 and accordingly to pay him balance/arrears of gratuity and encashment of earned and sick leave days, together with 18% interest p.a within a time frame as may be fixed by this Court.

For Petitioner : Mr.S.Arunachalam

For Respondent : Mr.P.Balasubramanian
Standing Counsel

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus to direct the respondent to revise the terminal benefits of the petitioner, namely gratuity and encashment of 240 days earned leaves based on such wages payable to him in the month of his retirement i.e., April, 2014, after correctly arriving the same by taking note of the enhanced rate of dearness allowance as ordered/fixed for the period from 01.01.2014 to 30.06.2014 in the G.O.No.96, Finance (Allowances) Department dated 03.04.2014 and accordingly to pay him balance/arrears of gratuity and encashment of earned and sick leave days, together with 18% 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 Junior Assistant in the respondent Corporation on 19.12.1984 and he retired as Superintendent on 30.04.2014 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 01.01.2014 to 30.06.2014 and accordingly, the respondent 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 30.04.2014, he was given wages for the month of April, 2014, based on the dearness allowance fixed for the earlier period i.e., from 01.07.2013 to 31.12.2013 and not based on the dearness allowance fixed for the period from 01.01.2014 to 30.06.2014, as it has been enhanced on the later date and given effect to by the respondent after 30.04.2014. As he is entitled to get arrears of his retirement benefits, namely gratuity and leave salary, which are determined only based on the monthly wages payable to him in the month of his retirement, he made a representation dated 15.10.2019 to the respondent, seeking to revise and pay the arrears of the terminal benefits, namely, gratuity and encashment of earned leave and sick leave days along with interest, and the 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 15.10.2019.

7.Considering the limited scope of prayer sought for, this Court without going into the merits of the petitioner's claim, directs the respondent to consider the representation of the



petitioner, dated 15.10.2019 and pass orders on merits and in accordance with law, within a period of twelve (12) 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 15.10.2019, to the respondent.

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

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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To

The General Manager,
The Management of Tamilnadu State Transport
Corporation (Kumbakonam) Ltd.,
Trichy Region, Trichy.

+1 CC to Mr.P.BALASUBRAMANIAN, Advocate (SR-11397[F] dated 12/03/2020)

**ORDER MADE IN
W.P (MD) No.5145 of 2020
11.03.2020**

KM/ (23.03.2020) 3P 4C