



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.09.2020**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.11555 of 2020

D.K.V.Asaithambi

... Petitioner

-Vs-

1.The Management of Tamil Nadu
State Transport Corporation,
(Kumbakonam) Limited,
Rep., by its Managing Director,
Kumbakonam.

2.The General Manager,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited,
Kumbakonam Region,
Kumbakonam.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents to revise the scale of pay of the petitioner in the post of Special Grade Conductor with effect from 01.09.2016 as per the settlement under Section 12(3) of the I.D.Act dated 04.01.2018 and consequently direct the respondents to pay him difference amount in his gratuity payable to the petitioner based on 13th wage settlement dated 04.01.2018 together with interest at 18% per annum payable from the date of his retirement to till the date on which the above monetary benefits are settled to the petitioner.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.P.M.Vishnuvarthanan
Standing Counsel

ORDER

Prayer sought for herein is for a Writ of Mandamus to direct the respondents to revise the scale of pay of the petitioner in the post of Special Grade Conductor with effect from 01.09.2016 as per the settlement under Section 12(3) of the I.D.Act, dated 04.01.2018 and consequently, direct the respondents to pay him difference amount in his gratuity payable to the petitioner based on 13th wage settlement, dated 04.01.2018 together with interest at 18% per annum payable from the date of his retirement till the date on which the above monetary benefits are settled to the petitioner.

2.Heard Mr.A.Rahul, learned counsel appearing for the petitioner and Mr.P.M.Vishnuvarthanan, learned Standing Counsel appearing for the respondents.

3.With the consent of both sides, this writ petition is taken



up for final disposal at the admission stage itself.

4. That the petitioner was working as Conductor at the respondent Transport Corporation from 1989 and after serving for long years, he retired from service on 31.01.2017 and his retiral and pensionary benefits had also been disbursed. However, subsequently, a wage settlement has been reached between the employer and employee under Section 12(3) of the Industrial Dispute Act on 04.01.2018 and accordingly, since it has been brought under retrospective effect from 01.09.2016 and the petitioner retired only on 31.01.2017, he would be entitled to get the revised pay scale and based on the revised pay scale, he would be entitled to get the pensionary benefits also.

5. Since the said benefits have not been calculated and paid to the petitioner so far, the petitioner has made a representation to that effect to the respondents on 05.08.2019 and since the same has not so far been considered, the petitioner has approached this Court by way of the present writ petition.

6. The learned counsel appearing for the petitioner would submit that, if a direction is given to the respondents to consider the representation of the petitioner and accordingly, calculate the difference of pay based on the 12(3) settlement under the Industrial Dispute Act and the same is directed to be paid, within a time frame, the petitioner would be satisfied.

7. The learned Standing Counsel appearing for the respondents would submit that, in the light of the 12(3) Wage Settlement under Industrial Dispute Act dated 04.01.2018, the request of the petitioner made through the representation dated 05.08.2019 would be considered and based on the entitlement, it shall be quantified and disburse the same within a time frame that may be stipulated by this Court.

8. Considering the limited scope of the prayer sought for herein and having regard to the submissions made by both sides, this Court is inclined to dispose the writ petition with the following order:

'that the respondents are hereby directed to consider the representation of the petitioner, dated 05.08.2019 and pass necessary orders thereon, on the basis of the wage settlement under Section 12(3) of the Industrial Dispute Act, dated 04.01.2018 and accordingly, decide the entitlement and quantum of the difference of pay and other pay benefits accruing from them and disburse the same within a period of twelve (12) weeks from the date of receipt of a copy of this order.'



9. With the above directions, this Writ Petition is disposed of.
No costs.

Sd/-

Assistant Registrar (CSI)

// True Copy //

WEB COPY

/ /2020

Sub Assistant Registrar(CS)

rmk

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

TO

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+1 CC to M/s.P.M. VISHHNUVARTHANAN, Advocate (SR-16783
[F] dated 14/09/2020)

W.P. (MD) No.11555 of 2020
14.09.2020

CK(CO)

KB(04.11.2020) 3P 4C