



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

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Writ Petition (MD)No.16961 of 2020

M.Rajaraman

... Petitioner

Vs.

1. The Management of
Tamil Nadu State Transport Corporation
(Villupuram) Limited,
represented by its Managing Director,
Villupuram.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Villupuram) Limited,
Cuddalore Region,
Cuddalore.

... Respondents

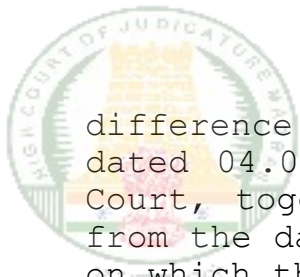
Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the second respondent in Ka.No.151/L5/TNSTC(Vi)/Ka.ma/MACD/2020, dated 13.07.2020 and quash the same insofar as not fixing any time limit for payment of difference in gratuity and difference in earned leave salary, based on the wage revision given under settlement under Section 12(3) of ID Act dated 04.01.2018 and consequently directing the respondents to calculate and pay the petitioner difference in gratuity and difference in earned leave salary as per wage revision settlement dated 04.01.2018 within the time limit that may be fixed by this Court, together with interest at the rate of 18% per annum payable from the date of his retirement ie. on 30.04.2017 to till the date on which the above amounts are settled to him.

For Petitioner	:	Mr.A.Rahul
For Respondents	:	Mr.Balasubramanian
		Standing counsel for TNSTC

O R D E R

By consent, the writ petition is taken up for final disposal.

2. This writ petition has been filed against the order passed by the second respondent in Ka.No.151/L5/TNSTC(Vi)/Ka.ma/MACD/2020, dated 13.07.2020 and quash the same and consequently direct the respondents to calculate and pay the difference in gratuity and



difference in earned leave salary as per wage revision settlement dated 04.01.2018, within the time limit that may be fixed by this Court, together with interest at the rate of 18% per annum payable from the date of his retirement i.e. on 30.04.2017, to till the date on which the above amounts are settled to him.

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3. The petitioner joined the second respondent Corporation as Conductor on 17.09.1988 and he was promoted to the post of Checking Inspector on 15.08.2014. Thereafter, he retired from service on 30.04.2017. The service condition of Workmen of Transport Corporation is governed by settlements signed under Section 12(3) of the I.D. Act. The main grievance of the petitioner is that he has not been paid with difference in gratuity and difference in leave salary. Therefore, he was constrained to approach this Court by filing W.P.(MD).No.2564 of 2020. This Court, by order dated 10.02.2020, directed the respondents viz., the Managing Director and the Administrator of Pension Trust to consider the representation of the petitioner, dated 14.12.2019, on merits and in accordance with law. Subsequently, after receipt of the order of this Court dated 10.02.2020, the second respondent has passed the impugned order dated 13.07.2020, by which the representation of the petitioner was rejected stating that the difference in gratuity will be paid depending upon the availability of funds. Therefore, challenging the above said impugned order, the petitioner has approached this Court for appropriate relief.

4. The learned counsel appearing for the petitioner would submit that non-availability of the funds cannot be a ground for the disbursement of the difference in payment of gratuity and other benefits.

5. Heard the learned counsel for the petitioner as well as the learned Standing counsel for the respondents and perused the materials available on record.

6. In the present case, a direction was issued by this Court on 10.02.2020, to dispose of the representation of the petitioner dated 14.12.2019. Accordingly, the second respondent has disposed of the representation of the petitioner stating that the difference amount in gratuity and other benefits will be paid depending upon the availability of funds. The petitioner is not asking any loan from the respondent Corporation. But he is entitled to the retirement benefits as he already invested when he was working in the Corporation. Therefore, the second respondent is not proper to refer the financial position of the Corporation and thereby denied the petitioner's retirement benefits, which he is entitled to legally. The reply of the respondents would show the financial incapacity of the respondents to disburse the retirement benefits and the poor management of the financial affairs of the respondents. To set right the financial poor Management, it is for the Management to take



appropriate action against those who are in the Financial Department which they were not able to manage the financial affairs in a proper manner. Therefore, this Court directs the second respondent to pay the difference in gratuity and other benefits with the available funds first, within a period of three weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (A.E)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

akv

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

1. The Managing Director,
Management of Tamil Nadu State Transport Corporation
(Villupuram) Limited,
Villupuram.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Villupuram) Limited,
Cuddalore Region, Cuddalore.

+1 CC to Mr.A.RAHUL, Advocate (SR-23252[F] dated 30/11/2020)

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TP (CO)
CS (23.12.2020) 3P 4C