BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :**04.12.2020**
CORAM
THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**
W.P.(MD) No.17140 of 2020

V.Chelladurai ...Petitioner

Vs

1.The Managing Director,
Tamilnadu State Transport Corporation (Madurai) Ltd.,
Bye Pass Road,
Madurai 16.

2.The General Manager,
Tamilnadu State Transport Corporation (Madurai) Ltd.,
Virudhunagar Region,
Virudhunagar.

3.The Administrator,
Tamilnadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai -2. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to sanction the last increment notionally which fell due on 01.07.2016, in the light of the Judgment of this Court reported in 2011 Writ L.R.728 in WP.No. 22589/2010 dated 03.08.2011, which was confirmed by the Division Bench Judgment of this Court in W.A.No. 2095/2011 dated 10.11.2011 and by the Honble Supreme Court in C.C.No.10842/2013 dated 04.07.2013 and in terms of G.O.Ms.No.140, Finacne (Pay Cell) Department dated 25.04.2018 and consequently to settle the arrears of pension with consequential benefits along with 7th pay Commission Arrears with interest at the rate of 18% per annum.

For Petitioner : Mr.S.Govindan
For Respondents : Mr.J.Senthilkumaraiah
Standing Counsel

ORDER

This Writ Petition is filed to direct the respondents to sanction the last increment, notionally which fell due on 01.07.2016, in the light of the Judgment of this Court made in writ L.R.728 in WP.No.22589/2010 dated 03.08.2011, which was confirmed by the Hon'ble Division Bench of this Court in W.A.No.2095/2011, dated 10.11.2011 and by the Honble Supreme Court in C.C.No.10842/2013, dated 04.07.2013 and in terms of G.O.Ms.No.140, Finacne (Pay Cell)

Department dated 25.04.2018 and to settle the arrears of pension with consequential benefits along with 7th pay commission arrears with 18% interest per annum.

2.The learned counsel appearing for the petitioner would submit that the petitioner was working as Senior Superintendent in the respondent Corporation and was granted increment on 01.07.2015 in the said cadre. On attaining the age of superannuation, the petitioner was retired from service on 30.06.2016.

3.It is the main contention of the learned counsel appearing for the petitioner that the petitioner was not granted increment for a period from 01.07.2015 to 30.06.2016, which fell due on 01.07.2016 on the ground that he was retired from service on 30.06.2016. He would further submit that as per G.O.Ms.No.140, Finance (Pay Cell) Department, dated 25.04.2018, the petitioner is entitled for notional increment with effect from 01.07.2016 and the relevant portion of the aforesaid Government Order is as follows:-

> "*5.In the orders of the Hon'ble High Court of Madras fourth to twenty first read above, orders were passed by the Hon'ble High Court to extend the benefit of G.O.Ms.No.311, Finance (CMPC) Department, dated 31.12.2014 in favour of the petitioners.*
>
> *6.After careful consideration of the various judgments passed by the Hon'ble High Court, the Government have decided to comply the orders of the Hon'ble High Court in favour of all eligible retired employees who have completed one full year of service and not sanctioned annual increment due to their superannuation prior to 31.12.2014. Accordingly, Government extend the benefit of sanction of annual increment to all the petitioners who have filed various writ petitions and all other similarly placed persons who retired prior to 31.12.2014 and completed one full year of service prior to their retirement, notionally with effect from the date of their retirement for the purpose of revision of pension with monetary benefit prospectively with effect from 31.12.2014 ie., from the date of issue of G.O.Ms.No.311, Finance (CMPC) Department, dated 31.12.2014.*"

4.In support of his contention, the learned counsel also relied upon the order of this Court made in W.P.(MD) No.12322 of 2017 dated 05.07.2017, wherein, it had been stated as follows:-

> "*9.Admittedly, the petitioner after serving as Co-operative Sub-Registrar, Madurai, retired from service, on reaching the age of superannuation on 31.03.2013. When she was not paid with the increment for having served from 01.04.2012 till 31.03.2013, as per F.R. 26 (a) Appendix (ix), which is extracted as above, the increment for the said year deserved*

to be sanctioned. A perusal of F.R26 (a) Appendix (ix) shows that the increment of a Government servant which fell due in a quarter to be sanctioned on the first day of that quarter even though he retires from service. Therefore, when F.R 26(a) Appendix (ix) candidly makes it clear that the increment of the Government servant which fells due in a quarter to be sanctioned on the first day of the quarter even though retires from the service, in the instant case, the petitioner, having served continuously from 01.04.2012 to till 31.03.2013, on attaining the age of superannuation on 31.03.2013, retired from service, therefore she will not be able to work on 01.04.2013. Hence, the ground taken by the respondents that since she is not in service on 01.04.2013, not entitled to the increment, is wholly running contrary to F.R.26 (a) Appendix (ix).

10.In the similar circumstances, I have also held in W.P.(MD) No.10630 of 2016, dated 15.07.2016 that the annual increment for the service rendered from 01.04.2013 to 31.03.2014 which fell due from 01.04.2014 should be granted.

11.In view of the above, the writ petition is allowed and the impugned order is set aside. No costs. It is needless to mention that the first respondent is hereby directed to sanction the last increment which fell due on 01.04.2013 within a period of six weeks from the date of receipt of a copy of this order."

5.By referring the aforesaid Government Order and the order of this Court dated 05.07.2017, the learned counsel appearing for the petitioner would submit that the respondents are bound to sanction the last increment to the petitioner, which fell due on 01.07.2016, since the petitioner is entitled to get the same. He would further submit that though the petitioner has made a representation dated 16.09.2020 to the respondents explaining his grievance, the respondents have not taken any decision on such representation till date. Hence, the petitioner is before this Court by way of filing the present writ petition for passing appropriate orders.

6.In reply, Mr.J.Senthilkumaraiah, learned Standing Counsel appearing for the respondents would submit that the petitioner's representation dated 16.09.2020, would be considered by the respondents in the light of G.O.Ms.No.140, Finance (Pay Cell) Department, dated 25.04.2018 and the order of this Court made in W.P.(MD) No.12322 of 2017 dated 05.07.2017, within a period of eight weeks.

7.In view of the submissions made by the learned counsel on either side, this Court is inclined to pass the following directions:-

the respondents are directed to consider the petitioner's representation dated 16.09.2020 and pass appropriate orders, in the light of G.O.Ms.No.140, Finance (Pay Cell) Department, dated 25.04.2018 and the order of this Court made in W.P.(MD) No.12322 of 2017 dated 05.07.2017, within a period of eight weeks from the date of receipt of a copy of this order;

8.With the above direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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.

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