BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :**22.12.2020**

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THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

W.P.(MD) No.18983 of 2020

N.Rajendran ...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 filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the 2nd respondent passed in Ka.No.152/L5/TNSTC(Vi)/Ka.ma/MACD/2020, dated 10.09.2020, quash the same insofar as not fixing any time limit for payment of difference in gratuity, 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 of Rs.2,22,552/- 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 amount is disbursed to him.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.J.Senthilkumaraiah
Standing Counsel

ORDER

This Writ Petition is filed to quash the impugned order passed by the 2nd respondent in Ka.No.152/L5/TNSTC(Vi)/Ka.ma/MACD/2020, dated 10.09.2020 and to direct the respondents to calculate and pay the difference in gratuity of Rs.2,22,552/-, as per wage revision settlement dated 04.01.2018 together with interest at the rate of

18% per annum to the petitioner payable from the date of his retirement ie. on 30.04.2017 to till the date on which the aforesaid amount is disbursed to him.

2.By consent of both parties, the writ petition is taken up for final disposal.

3.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.

4.According to the petitioner, on 01.01.1983, he joined duty in the respondent Corporation as Conductor. Subsequently, he was promoted to the post of Checking Inspector and on attaining the age of superannuation, he was 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.

5.The main grievance of the petitioner is that he has not been paid with difference in gratuity, for which, he was constrained to approach this Court by way of filing W.P.(MD).No.2670 of 2020. This Court, by order dated 12.02.2020, directed the respondents viz., the Managing Director and the Administrator of Pension Trust to consider the representation of the petitioner, dated 18.12.2019, on merits and in accordance with law. After the receipt of the order of this Court dated 10.02.2020, the 2nd respondent has passed the impugned order dated 10.09.2020, 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.

6.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.

7.The learned Standing Counsel appearing for the respondents would submit that the amount will be paid shortly.

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

9.In the present case, the 2nd 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 has already invested the same for his future needs, when he was working in the Corporation. Therefore, it is a property of the employee and that 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 poor financial 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.

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

Sd/-

Assistant Registrar (CS-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.

+1cc to Mr.A.Rahul, Advocate Sr.No.26804

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22.12.2020

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