



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.(MD) No.15418 of 2014

R.Soundararajan

Petitioner

Vs

1. The Tamil Nadu State Transport Corporation (Madurai) Ltd
Represented by its Managing Director
Bye Pass road
Madurai - 625 010.

2. The General Manager
Tamil Nadu State Transport Corporation (Madurai) Ltd
Madurai Region
Bye Pass Road
Madurai - 625 010

3. The Administrator
Tamil Nadu State Transport Corporation Pension Trust
Tiruvalluvar Illam
Pallavan Salai
Chennai - 600 002

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the second respondent in Ref:Sattam/W.P.No.20473/2013, Madurai Region-Legal Department dated 20.03.2014, quash the same and consequently directing the respondents to give the revised pay fixation notionally to be arrived as on 30.09.2010 as per settlement dated 22.01.2011 and to revise his pension benefits and to pay the revised pension benefits including difference in monthly Pension, Gratuity, Provident Fund, Commutation of Pension etc., within the time limit that may be fixed by this Court.

For Petitioner : Mr. A.Rahul

For Respondents : Mr.N.Shanmuganandam
Special Government Pleader



O R D E R

This writ petition is filed to call for the records pertaining to the impugned order passed by the second respondent and quash the same and consequently to direct the respondents to give the revised pay fixation notionally to be arrived as on 30.09.2010 as per settlement dated 22.01.2011 and to revise his pension benefits and to pay the revised pension benefits including difference in monthly Pension, Gratuity, Provident Fund, Commutation of Pension etc., within the time limit that may be fixed by this Court.

2. The case of the petitioner is that he was appointed as Driver in the respondent Corporation and completed 26 years of service. The petitioner's voluntary retirement with effect from completion of duty on 30.09.2010 i.e., from 01.10.2010 was accepted by the second respondent in and by his order passed in ref No.Administration/A4/102/2010 dated 05.02.2011. Subsequently, a settlement under Section 12(3) of the I.D. Act was signed regarding revision of wages from 01.09.2010. Clause I of the said settlement provides for revision of pay from 01.09.2010. Since the petitioner has not been given the pay revision benefit, he has made his representation to re-fix the petitioner's scale as on 01.09.2010. Further, the petitioner has made representation under RTI Act, for which a reply has been received stating that since the petitioner retired under Voluntary Retirement Scheme with effect from 30.09.2010 and also due to his absent from duty from February 2010, the revised pay fixation was not applicable to the petitioner. Hence, the petitioner has filed a Writ Petition in W.P.(MD) No.20473 of 2013 and this Court by an order dated 18.12.2013, directed the respondents to consider the representation of the petitioner. On 20.03.2016, the impugned order has been passed rejecting the claim of the petitioner. Hence the petitioner has come up with this present Writ Petition.

3. Heard both sides and perused the records available on record.

4. The learned counsel appearing for the petitioner submitted that order accepting the petitioner's voluntary retirement from service with effect from 01.10.2010 was passed by the second respondent only on 05.02.2011. i.e after the settlement under Section 12(3) of the I.D.Act was passed on 22.01.2011, which came into retrospective effect from 01.09.2010. Hence, not only the petitioner but all the existing employees have not received their wages as per the settlement till 22.01.2011. Hence, it is illogical on the part of the respondents to contend that the petitioner did not receive salary from 01.09.2010 to 30.09.2010 and that he did not contribute employer's PF contribution based on the new scale. Therefore, the respondents cannot deny the notional fixation of pay



to the petitioner, as per new wage revision settlement.

5. Per contra, the learned Special Government Pleader appearing for the respondent submitted that the petitioner was unauthorized absent from duty from February 2010 to 30.09.2010 and subsequently, he made a requisition for voluntary retirement and he was also allowed to retire from service on 30.09.2010 as a special case. Due to the petitioner's absent from duty for the above said period, the petitioner is not at all eligible for the revised pay. Hence, there is no need to interfere with order passed by the second respondent.

6. On a perusal of the records, it is an admitted fact that the settlement under Section 12(3) of the I.D.Act was passed on 22.01.2011, which came into retrospective effect from 01.09.2010. Whereas the order accepting the petitioner's voluntary retirement from service with effect from 01.10.2010 was passed by the second respondent only on 05.02.2011. Hence, it is needless to say that the while the petitioner was in service, the settlement under Section 12(3) of the I.D.Act was passed with retrospective effect from 01.09.2010. Therefore, the petitioner was in service till his application for voluntary retirement was accepted on 01.10.2010. The settlement came into force with retrospective effect from 01.09.2010. Therefore, the respondents cannot deny the revised pay to the petitioner.

7. In the light of the above, the impugned order dated 20.03.2014 passed by the second respondent is hereby quashed and there shall be a direction to the respondents to give the petitioner the revised pay fixation notionally, which has to be arrived as on 30.09.2010 as per settlement dated 22.01.2011 and further the petitioner is entitled to receive his revised pensionary benefits including difference in monthly Pension, Gratuity, Provident Fund, Commutation of Pension etc., within a period of twelve weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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+1 CC to M/s.J.SENTHIL KUMARAIAH, Advocate (SR-2369[F] dated 22/01/2020)

+1 CC to M/s.A.RAHUL, Advocate (SR-2293[F] dated 22/01/2020)

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