



WEB COPY

W.P.(MD)No.18389 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.18389 of 2016

and

W.M.P. (MD)Nos.13225 of 2016

and 16063 of 2017

N.Arunachalam

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Govt.
Transport Department and Chairman of Board
of Directors of State Transport Undertakings,
Fort St.George, Chennai-9.

2.The Tamil Nadu State Transport
Corporation(Kumbakonam) Ltd.,
Rep. by its Managing Director, Kumbakonam.

3.The General Manager,
The Tamil Nadu State Transport
Corporation(Kumbakonam) Ltd.,
Pudukkottai Region, Pudukkottai.

4.The Administrator,
Tamil Nadu State Transport Corporation
Pension Fund Trust, Thiruvalluvar Illam,
Pallavan Salai, Chennai-2.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Declaration, declaring the action of the respondents in reducing the petitioners pension from Rs.26,298/- to Rs.24,450/- as illegal, arbitrary and unconstitutional and consequently direct the respondents to continue to pay pension to him without any reduction from February 2016 at the rate of Rs.26,298/- (with corresponding revision).

For Petitioner : A.Rahul

For R-1 : Mr.R.Sethuraman
Special Government Pleader

For R-2 & R-3 : Mr.D.Sivaraman



For R-4

: Mr.A.Swaminathan

O R D E R

The petitioner herein, while serving as an Assistant Manager, was issued with a promotion order, dated 29.08.2015 promoting him to the post of Deputy Manager in the revised scale of pay of Rs.15,600 - 39,100 with Grade Pay of Rs.6600/- with effect from 27.08.2015. After his promotion as a Deputy Manager, the petitioner retired from his service on 31.08.2015 from the post of Deputy Manager. Pursuant to his retirement, the petitioner was being paid by the monthly pension of Rs.26,298/- p.m. in the scale of pay applicable to the post of Deputy Manager. In the month of March 2016, the petitioner's pension was reduced to Rs.24,450/-, without any notice or order of reduction of the monthly pension. Aggrieved against such an action of reduction of the pension, the present writ petition has been filed seeking for issuance of writ of declaration to declare the action of the respondents in refusing the pension, as arbitrary.

2.The learned counsel appearing for the petitioner would submit that the reduction of the monthly pension, without any prior notice or order, is in violation of the principles of natural justice and therefore is liable to be set aside. Even otherwise, the respondents are not justified in reducing the monthly salary, when the petitioner has been properly promoted to the post of Deputy Manager through a promotional order, dated 29.08.2015 and as such he is entitled for the monthly pension in the scale of pay applicable to the post of Deputy Manager.

3.The learned counsel appearing for the respondents 1 to 3 would submit that since the petitioner had retired from his service from the post of Deputy Manager, he was properly settled by the retirement benefits applicable to the post of Deputy Manager.

4.The learned standing counsel appearing for the fourth respondent would rely upon the averments made in the counter affidavit of the fourth respondent dated 29.11.2017 and submit that the petitioner had rendered service in the post of Deputy Manager for a day alone and therefore, he cannot take advantage of the scale of pay for his service rendered for a single day alone. As such the learned standing counsel would submit that there is no infirmity in their action in refusing the petitioner's pension.

5.I have given careful consideration to the submissions made by the respective counsel.



6.It is not in dispute that when the fourth respondent herein had reduced the petitioner's pension from the scale of pay applicable to the post of Deputy Manager to the scale of pay of an Assistant Manager neither a prior notice calling for explanation / objections from the petitioner was issued, nor was any written order passed for such reduction. As such, the action of the respondents, in reducing the petitioner's monthly pension without any prior notice or affording an opportunity to the petitioner to put forth his objection, would be in violation of the principles of natural justice and on this short ground, the petitioner would be entitled to succeed.

7.Even otherwise, the only stand taken by the respondents in attempting to justify their action in reducing the petitioner's pension from the scale of pay of a Deputy Manager to the scale of pay of an Assistant Manager is that the petitioner herein has served in the post for only one day.

8.A copy of the promotional order of the petitioner, dated 29.08.2015, is produced before this Court. The terms of the promotional order does not place an embargo for the petitioner to receive the pension in the revised scale of pay of that Deputy Manager category. There are also no Rules or Regulations, which places such an embargo on the employee to receive the pension in the scale of pay applicable to the post of Deputy Manager. The counter affidavit also does not reveal or rely upon any such Rules, which would entitle them to reduce the scale of pay, in the event of just one day service. While that being so, a mere reference that the petitioner had served in the promotional post for one day, will not entitle them to reduce the monthly pension, more particularly without giving any prior notice or issuing an order to that effect.

9.While that being so, the entire action of the respondents in reducing the petitioner's monthly pension is not only illegal, but also highly arbitrary. In view of the fact that the order is in violation of the principles of natural justice, the action could also be termed as unconstitutional.

10.For all the forgoing reasons, this Court is of the view that the petitioner is entitled to succeed. Consequently, there shall be a direction to the fourth respondent herein to continue to pay the pension to the petitioner in the scale of pay applicable to a Deputy Manager and also pay the arrears of the difference of the monthly pension applicable to the post of Deputy Manager from the month of February, 2016. Such an action of disbursement of the arrears shall be made atleast within a period of six weeks from the date of receipt of a copy of this order.



11.In the result, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar (CS)

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To

1.The Secretary to Govt., The State of Tamil Nadu,
Transport Department and Chairman of Board
of Directors of State Transport Undertakings,
Fort St.George, Chennai-9.

2.The Managing Director,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam.

3.The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Pudukkottai Region, Pudukkottai.

4.The Administrator,
Tamil Nadu State Transport Corporation
Pension Fund Trust, Thiruvalluvar Illam,
Pallavan Salai, Chennai-2.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-4955[F] dated 06/02/2020)

+1 CC to M/s.SPL GP (SR-5223[F] dated 07/02/2020)

+1 CC to M/s.A.RAHUL, Advocate (SR-5352[F] dated 07/02/2020)

W.P. (MD) No.18389 of 2016

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mr (CO)

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