

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.02.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3864 of 2021  
and  
W.M.P.No.4429 of 2021  
(Heard through VC)

P.Ganesan

.. Petitioner

-vs-

Tamil Nadu Cements Corporation Ltd.,  
Rep. by its Managing Director,  
No.735, Anna Salai,  
Chennai - 600 002.

.. Respondent

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondent to grant pension to the petitioner based on the last drawn pay after implementing pay revision notionally as per Seventh Pay Commission and consequentially disburse pension arrears, Leave Surrender arrears, Provident Fund, Gratuity arrears etc. to the petitioner.

For Petitioner : Dr.S.S.Swaminathan

For Respondent : Mr.A.Sivaji

**ORDER**

The petitioner has come forward with this writ petition seeking a direction to the respondent to grant pension to him based on the last pay drawn after implementing pay revision notionally as per Seventh Pay Commission and consequentially disburse the pension arrears, Leave Surrender arrears, Provident Fund, Gratuity arrears etc. to him.

2. Mr.A.Sivaji, learned counsel takes notice on behalf of the respondent.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, he had been working as driver in the respondent-Corporation from 18.03.1996 to

15.07.2016. Due to family circumstances, on 15.07.2016, he resigned his job. During resignation, he was working as Selection Grade Driver. The respondent by proceedings dated 18.07.2016 sanctioned the payment of Gratuity and the same was paid to the petitioner. But Surrender Leave salary was not given to the petitioner till date. The 7<sup>th</sup> Pay Commission recommended for revision of pay of Government employees including State owned Corporation and the same has been implemented notionally from 01.01.2016 with monetary benefits from 01.10.2017. Accordingly, the petitioner's last drawn pay has to be revised and the Gratuity payable to him has to be calculated keeping in view the revision of pay under 7<sup>th</sup> Pay Commission. The petitioner has made a representation dated 14.08.2020 to the respondent in this regard. But, till date, there is no reply from the respondent. Hence, this petition.

5. According to the learned counsel for the petitioner, the petitioner has submitted a representation dated 14.08.2020, but, the same is yet to be disposed of by the respondent. Learned counsel submitted that it would suffice, if the said representation made by the petitioner is directed to be considered and disposed of by the respondent on merits.

6. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondent, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondent herein to consider the representation submitted by the petitioner dated 14.08.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 14.08.2020 and this order, to the respondent forthwith;

v) The respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rsi

To

The Managing Director,  
Tamil Nadu Cements Corporation Ltd.,  
No.735, Anna Salai,  
Chennai - 600 002.

+1 cc to Mr.A.Sivaji, Advocate Sr No.11251

+1 cc to Mr.S.S.Swaminathan, Advocate Sr No.11179

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PMK (CO)

RG.26.04.2021 (3P.4C)

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