

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5587 of 2021

P.Nithiyanandan

... Petitioner

-vs-

1. The Government of Tamilnadu
Rep by its Principal Secretary
Department of Transport
Secretariat
Chennai - 600 009.
2. The Managing Director,
Tamilnadu State Transport
Corporation (Salem) Limited
12, Ramakrishna Salai
Salem - 636 007.
3. The Administrator,
Tamil Nadu State Transport
Corporation Employees' Pension Trust,
Administrative Office,
Thiruvallur House,
Pallavan Salai,
Chennai - 600 002.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to the petitioner request i) to rectify the pay anomaly on par with his junior K.Venkatachalam and A.Rangasamy with effect from 24.02.2015, ii) to sanction annual increments for the years 2017 and 2018, iii) to pay the difference in payment of gratuity, commutation, leave salary based on the revised scale of pay, iv) to revise the pension based on the revised rate of dearness allowance from the date of retirement and to pay the interest for the delayed payment of retirement benefits.

For Petitioner : Mr.A.Nagarathinam

For Respondents: Mr.P.Karthikeyan,

Additional Government Pleader
for R1

D.Raghu for R2.

O R D E R

This Writ petition is filed, seeking a direction to the respondents to the petitioner request i) to rectify the pay anomaly on par with his junior K.Venkatachalam and A.Rangasamy with effect from 24.02.2015, ii) to sanction annual increments for the years 2017 and 2018, iii) to pay the difference in payment of gratuity, commutation, leave salary based on the revised scale of pay, iv) to revise the pension based on the revised rate of dearness allowance from the date of retirement and to pay the interest for the delayed payment of retirement benefits.

2. Mr.P.Karthikeyan, learned Additional Government Pleader, takes notice for the first respondent and Mr.D.Raghu, learned counsel, learned counsel takes notice for the second respondent. By consent, final orders are passed in the Writ Petition at the admissions stage.

3. It is the case of the petitioner that the petitioner was temporarily appointed on 27.03.1989 and his service was regularised on 01.07.1990 as Junior Assistant by the respondent Corporation. Then he was promoted to the post of Senior Assistant and thereafter he was promoted to the post of Superintendent by an order dated 24.02.2015 issued by the respondent Corporation. The petitioner's Employee No.AS0203. He retired from service on 31.01.2018 on attaining the age of superannuation. He was discharging his duties without any blemish of records during his service. The respondent Corporation rectified the pay anomaly to some of the Superintendents but not to the petitioner. The petitioner has submitted a representation dated 04.02.2021 in this regard. The Government has also issued a G.O.Ms.No.142 dated 26.08.2019 for implementation of Revision of Pension to the retired employees of State Transport Undertakings. Hence the petitioner filed this Writ Petition to consider his representation dated 04.02.2021.

4. Considering the facts and circumstances of this case, if the Petitioner's application is already pending with the authorities concerned and, not disposed of earlier, this Court directs the respondent concerned to consider the representation of the petitioner dated 04.02.2021, if he is otherwise eligible and pass appropriate orders, in accordance with law, after affording an opportunity of hearing to the petitioner, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order. The petitioner shall appear for personal hearing on the specified date fixed by the 1st respondent either physically or virtually or he shall send a written submission through registered or speed post,

which can be treated as a personal hearing. In case the petitioner fails either to appear in-person or submit his written submission, there is no bar for the respondent to pass orders on the mercy petition based on the available documents before him and the petitioner, at a later point of time, cannot take a plea that opportunity of hearing was not afforded.

5. The petitioner shall furnish his phone number, email ID, if any, etc., along with a copy of the representation dated 04.02.2021 and this order, to the respondent concerned forthwith. The respondent concerned is directed to communicate the decision taken on the application, 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 parties to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the parties, they will have to face the civil imprisonment in case of contempt proceedings and, 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 attempt of delivery, so that the parties, at a later point of time, will not take a plea that he is not aware of the order.

6. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kmm

To

1. The Principal Secretary
The Government of Tamilnadu
Department of Transport
Secretariat
Chennai - 600 009.

2. The Managing Director,
Tamilnadu State Transport
Corporation (Salem) Limited
12, Ramakrishna Salai
Salem - 636 007.

3. The Administrator,
Tamil Nadu State Transport
Corporation Employees' Pension Trust,
Administrative Office,
Thiruvallur House,
Pallavan Salai,
Chennai - 600 002.

+1cc to Mr.D.Raghu, Advocate, S.R.No.14637
+1cc to Mr.A.Nagarathinam, Advocate, S.R.No.14929
+1cc to the Government Pleader, S.R.No.14874

W.P.No.5587 of 2021

GMI (CO)
CB(19/04/2021)



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