

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.01.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.13325 of 2020
and
W.M.P.No.16461 of 2020
(Heard through VC)

M.Balasubramaniam

.. Petitioner

-vs-

M/s.State Express Transport Corporation Ltd.,
Rep. by its Managing Director,
No.2, Pallavan 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 revise the petitioner's scale of pay and allowance from 01.01.2016, accordingly revise the petitioner's pension from September, 2016, pay the difference in salary from 01.01.2016 to 31.08.2016 and pay the consequential benefits like difference in Gratuity, Commutation and Leave Salary benefits and refund the amount recovered from the petitioner's pension with 6% interest.

For Petitioner : Mr.D.Soundar Raj

For Respondent : Mr.K.Kathiresan

O R D E R

The relief sought for in this writ petition is for a direction to the respondent to revise the petitioner's scale of pay and allowance due to him with effect from 01.01.2016 and pay the pension with effect from September, 2016 and also the difference in salary from 01.01.2016 to 31.08.2016 and pay the consequential benefits like difference in Gratuity, Commutation and Leave Salary benefits and refund the amount recovered from the petitioner's pension with interest at 6% per annum.

2. Heard both sides and perused the materials placed

before this Court.

3. The petitioner joined the services of the respondent corporation in the year 1985 and retired from the service on 31.08.2016 as Assistant Manager. Though the respondent admitted its liability to pay the benefits to the petitioner, the same were denied on account of two reasons that there is a financial constraint and G.O.Ms.No.134 Transport (D) Department, dated 09.04.2018 is a bar in implementation of the revised pay scales to the Managerial cadre officers, who were employed in State Transport Corporation.

4. This Court has already considered the grant of revised pension and the other benefits to the officers concerned by order dated 23.10.2018 in W.P (MD). No.21025 of 2018. The fact that the petitioner is eligible is not disputed and that the petitioner having retired on 31.08.2016 has to be necessarily extended the benefits of pension and other terminal benefits. It cannot be taken away simply by means of any Circular or Government Order or by any means unless otherwise the rules are amended.

5. In this case, the Government Order is of the year, 2018 and the petitioner retired from service in the year, 2016. Hence, the ground that G.O.Ms.No.134 Transport (D) Department, dated 09.04.2018 is a bar for implementation of Tamil Nadu Revised Pay Rules to the Managerial Cadres cannot be countenanced in view of the decision of the Madurai Bench referred to supra. However, at the same time, this Court is not lost sight of the fact that there is a financial crisis and that the Corporation is unable to meet out the expenditure due to Covid-19.

6. When this Court informs the respondent-Corporation that the amount has got to be paid and that this Court is inclined to grant time for payment of benefits in installments, the learned counsel appearing for the respondent requests twelve (12) months time to pay the amount and he further submitted that a portion of the amount has already been paid.

7. Taking note of the submission, after adjusting the amount already paid, the balance amount shall be paid in 12 monthly installments commencing from 01.02.2021. The eligible amount payable to the petitioner on account of his retirement has got to be paid and no deduction shall be made unless otherwise any amount is recoverable from him by the department pursuant to any order passed by the department, which has not been questioned by the petitioner before any forum.

8. With the above directions, the writ petition is

disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rsi

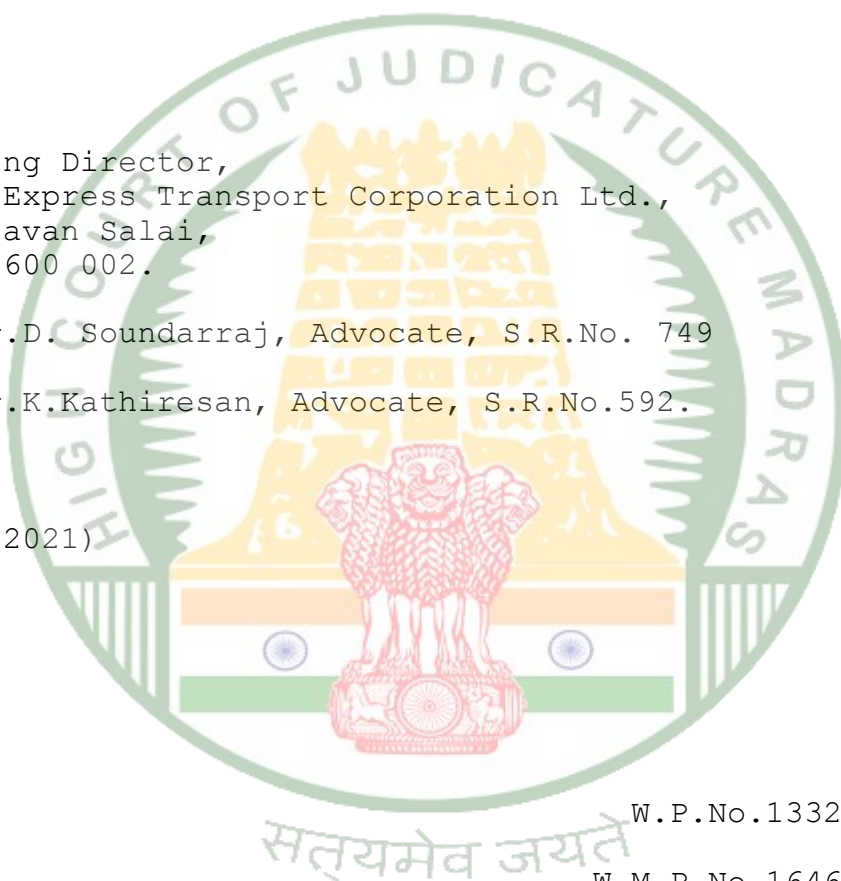
To

The Managing Director,
M/s.State Express Transport Corporation Ltd.,
No.2, Pallavan Salai,
Chennai - 600 002.

+1cc to Mr.D. Soundarraaj, Advocate, S.R.No. 749

+1cc to Mr.K.Kathiresan, Advocate, S.R.No.592.

AK(CO)
NRA(29/01/2021)



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