



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.7379 of 2019

D.Sathasivan Nair ...Petitioner

Vs.

1.Tamil Nadu State Transport Corporation
(Tiruneveli) Ltd.,
Rep. by its Managing Director,
Vannarapettai,
Thirunelveli-627 003.

2.The General Manager,
Tamil Nadu State Transport Corporation
Tiruneveli Divison,
Nagercoil Region,
Rani Thottam,
Nagercoil.

3.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai-600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to refix and revise the petitioner's pay from 01.09.2013 based on the terms of Settlement dated 13.04.2015 entered under Section 12(3) of Industrial Disputes Act, 1947, by giving pay revision at the rate of 5.5% and further directing the respondents to pay him the difference in salary for the period from 01.09.2013 to 30.11.2013 and to pay the difference in terminal benefits including monthly pension, Gratuity, Commuted value of Pension, Leave Salary and all other attendant benefits payable to the petitioner from 01.09.2013 to till date together with interest at the rate of 18% per annum based on the said settlement.

For Petitioner : Mr.A.Rahul

<https://hcservices.ecourts.gov.in/hcservices/> For Respondent No.2 : Mr.K.Sathiya Singh



For Respondents 1 & 3: No appearance

O R D E R

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

2. Though the petitioner has sought for issuance of writ of mandamus to direct the respondents to revise the petitioner's pay as per the settlement under Section 12(3) of the I.D.Act, dated 13.04.2015 with retrospective effect from 01.09.2013 and consequently directing the respondents to revise and re-fix the petitioner's retirement benefits and to disburse difference amounts in the petitioner's monthly pension, commuted value of pension, gratuity, earned leave salary to the petitioner with interest at the rate of 18% per annum payable from 01.09.2013 to till the date of actual payment by the respondents, in my view, such a decision is to be taken by the respondents and in case, the petitioner is aggrieved against such any decision, it would be appropriate to approach this Court.

3. The petitioner would submit that he has already made representation on 17.10.2018 in this regard, which is said to be pending. If the said representation is directed to be disposed of within stipulated time, the ends of justice could be secured.

4. Whenever a representation is made to a statutory authority to redress the claim of the employee, there is a duty cast upon the respondents to consider the same on its own merit and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. Such an inaction would amount to dereliction of duties and thereby this Court would be justified in invoking its extraordinary powers under Article 226 of Constitution of India and thereby direct such authority to consider the representation within the stipulated time.

5. In view of the above observations, there shall be a direction to the respondents herein to consider the petitioner's representation dated 17.10.2018 in terms of settlement under Section 12(3) of the Industrial Dispute Act, on its own merits and pass appropriate orders within a period of six (6) weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any of its view with regard to the claim made by the petitioner in his representation and it is for the respondents to consider it in accordance with law.



6. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

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// True Copy //

/ /2021

Sub Assistant Registrar (CS)

PJL

NOTE: *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*

To

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Tiruneveli) Ltd.,
Vannarapettai,
Thirunelveli-627 003.

2.The General Manager,
Tamil Nadu State Transport Corporation
Tiruneveli Divison, Nagercoil Region,
Rani Thottam,
Nagercoil.

3.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam, Pallavan Salai,
Chennai-600 002.

+1 CC to Mr.A.K.THANGAVELU, Advocate (SR-5027[F] dated 15/02/2021)

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12.02.2021

KM (26.02.2021) 3P 5C