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W.P.Nos.9020 & 9022 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.Nos.9020 & 9022 of 2019

M.K. Chandran

... *Petitioner in both WPs*

Vs.

1.The Management of Tamil Nadu

State Transport Corporation (Kovai) Ltd.,

Erode Region,

Rep. by its Managing Director,

Erode.

... *Respondents in both*

WPs

2.The Administrator,

Tamil Nadu State Transport Employees

Pension Fund Trust,

Thiruvalluvar Illam, Anna Salai,

Chennai – 2.

... *2nd Respondent in*

WP.No.9020/2019

Prayer in WP.No.9020/2019 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing 1st respondent to revise the scale of pay of the petitioner w.e.f., 01.09.2013 based on the wage settlement dated 13.04.2015 and consequently to pay him the difference in his terminal benefits namely Gratuity, Encashment of Leave, etc., after revising the same based on such re-fixed scale of pay



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payable to him on the month of his retirement, together with 18% interest per annum and further directing the respondents to revise his pension with effect from September 2014, based on such re-fixed scale of pay payable to him on the month of his retirement and to pay him arrears of the same for the period from September 2014, together with 18% interest per annum, within a time frame as may be fixed by this Court.

Prayer in WP.No.9022/2019 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondent to pay the petitioner the amount towards the encashment of 60 days of earned leaves surrendered by him in the years from 2010 to 2014 before his retirement either based on his monthly wages of the respective months of surrender of those earned leaves, together with 18% interest p.a., from the respective due dates or based on the monthly wages payable on the month of his retirement, together with 18% interest from the date of his retirement, within a time frame as may be fixed by this Court.

For Petitioner : Mr.V. Ajoy Khose

For Respondents : Mr.M. Murali Vinodh [R1]
Mr.C.S.K. Sathish [R2]

ORDER

The petitioner herein, while serving as a Conductor under the first respondent/Corporation, had retired from services on 31.08.2014. On 13.04.2015, the Management had entered into a settlement under Section



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12(3) of the Industrial Disputes Act, 1947, whereby, it was agreed that all the permanent employees as on 31.08.2013 would be entitled for revision of their pay scale. Since the petitioner had retired pursuant to 12(3) settlement, he claims for revision of his pay scale from 01.09.2013 together with gratuity and encashment of leave, in W.P.No.9020 of 2019.

2. In W.P.No.9022 of 2019, the petitioner seeks for encashment of 60 days of Earned Leave being surrendered by him from the period between 10.05.2013 to 01.09.2013.

3. The learned standing counsel appearing for the second respondent/Trust, on instructions, submitted that in accordance with the terms of 12(3) settlement of I.D. Act, the pension has been revised and the benefits have also been extended to the petitioner herein.

4. The learned standing counsel for the first respondent/Corporation, would submit that since the second respondent had already revised the pension, they would have also revised the scale of pay in accordance with 12(3) settlement of I.D. Act .



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5. The entitlement of the petitioner is not in dispute since he had retired on 31.08.2014 and 12(3) settlement extends the benefit of revision with effect from 01.09.2013. In view of this indisputable fact, the petitioner would be entitled to succeed in both the Writ Petitions.

6. Accordingly, there shall be a direction to the first respondent/Corporation, to revise the petitioner's scale of pay with effect from 01.09.2013 in accordance with the pay settlement arrived under Section 12(3) of the Industrial Disputes Act, 1947 and pay the difference of his terminal benefits including gratuity and encashment of leave, along with the encashment of 60 days of Earned Leave surrendered by him, with effect from 01.09.2013. Such an order for disbursement of the arrears shall be made within a period of six (6) weeks from the date of receipt of a copy of this order, if not already paid.

7. With the above direction, the Writ Petitions are allowed. No costs.

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Index : Yes/No

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M.S.RAMESH,J.

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