IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.12551, 12552, 12554 & 12555 of 2019

A.Nagarajan ...Petitioner in W.P.No.12551 of 2019
M.Eswaran ...Petitioner in W.P.No.12552 of 2019
S.Vasudevan ...Petitioner in W.P.No.12554 of 2019
M.Govindarajan ...Petitioner in W.P.No.12555 of 2019

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation
Coimbatore Limited,
37, Mettupalayam Road,
Coimbatore – 641 043.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Erode) Region,
45, Chennimalai Road,
Erode – 638 001.

3.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Pallavan Salai,
Chennai – 600 002. ..Respondents

Common Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to grant the benefits of implementing the Government order G.O.Ms.No.311, Finance(CMPC) Department dated 31.12.2014, which was adopted by the 2nd respondent Management in its 236th Board meeting conducted on 24.03.2015 and to consequentially direct the respondents to revise the pay scale of the petitioner notionally granting the annual increment for the year 2017-18 and to pay the arrears of terminal benefits which includes commutation, gratuity, leave encashment of salary and also the pension which is paid and payable from the date of retirement.

For Petitioners	: Mrs.V.Porkodi (in all W.Ps)
For R1 & R2	: Mr.M.Murali Vinodh (in all W.Ps)
For R3	: No appearance (in all W.Ps)

COMMON ORDER

The relief sought for in the present writ petitions are for a direction to direct the respondents to grant the benefits of implementing the Government order in G.O.Ms.No.311, Finance(CMPC) Department dated 31.12.2014, which was adopted by the 2nd respondent Management in its 236th Board meeting conducted on 24.03.2015 and to consequentially direct the respondents to revise the pay scale of the petitioner notionally granting the annual increment for the year 2017-18 and to pay the arrears of terminal benefits, which includes commutation, gratuity, leave encashment of salary and also the pension which is paid and payable from the date of retirement.

2. The petitioners joined as Junior Assistant Trainees in the Erstwhile Jeeva Transport Corporation. Subsequently, they were promoted to the post of Senior Assistant and Selection Grade Senior Assistant and thereafter, promoted as Superintendent. All the four petitioners retired from service on 30.06.2018.

3. The grievances of the writ petitioners are that the benefit of annual increment granted in G.O.Ms.No.311, Finance (CMPC) Department dated 31.12.2014 was not extended to them on the ground that they retired from service on 30.06.2018, one day before completion of one year of service.

4. This Court has elaborately considered the issues regarding the eligibility of the employees for grant of notional increment on completion of one year of service and retired one day prior to the increment due date. In this regard, this Court passed an order on 22.09.2017 in W.P.No.25590 of

2017 and the relevant paragraphs are extracted hereunder:

"12. The purport of the G.O., is to grant benefits in accordance with the Fundamental Rules and the Government in G.O.Ms.No.311, further issued directions to carry out necessary amendment to the Fundamental Rules in this regard. Such being the factum of the case, the claim with regard to the grant of annual increments for the retires prior to and after G.O.Ms.No.311 dated 31.12.2014, is to be affirmed by the State.

13. The learned Government Advocate also fairly submitted that there is no cut-off date fixed in G.O.Ms.No.311. The Government has already extended the benefit of annual increment as interpreted by the Pay Grievance Redressal Cell and the recommendation of the Redressal Cell was also accepted by the Government and G.O.Ms.No.311 was issued. Thus, the eligibility of the writ petitioner in respect of the annual increments cannot be denied. Further, the date of retirement is not prescribed as a cut-off date in the G.O., regarding eligibility.

14. The learned Government Advocate further contended that based on G.O.Ms.No.311 dated 31.12.2014, the writ petitioner is eligible in the event of fulfilling the conditions stipulated in G.O.Ms.No.311. However, the *eligibility of the respective writ petitioner is to be found based on their service records and the particulars therein.*

15. In this view of the matter, the claim set out in the writ petitioner deserve consideration. Quashing of G.O.Ms.No.311 does not arise at all, in view of the fact that there no cut-off date is fixed in the said G.O. and only monetary benefits alone is directed to be paid prospectively, with effect from 31.12.2014, i.e. the date of the G.O.

16. Accordingly, the writ petitioner who is falling in the category as stipulated in G.O.Ms.No.311 Finance (CMPC) Department dated 31.12.2014, are eligible to get their annual increments, notionally with effect from the date of retirement and the monetary benefits will be granted with effect from 31.12.2014, the date of G.O.Ms.No.311 Finance (CMPC) Department. With this clarification, the respondents and the competent authorities are directed to implement G.O.Ms.No.311 Finance (CMPC) Department dated 31.12.2014, by granting the benefit of annual increments, by verifying the respective Service Records of the writ petitioner and pay the monetary benefits prospectively with effect from 31.12.2014. "

5. The Government thereafter issued an amendment of Rule 26-A of Fundamental Rules vide G.O.Ms.No.98, Human Resources Management (FR.II) Department dated 21.09.2021. Accordingly, the following amendments are effected as under:

<u>*Amendment*</u>

"In the said Fundamental Rules, for rule 26-A, the following rule shall be substituted, namely:-

"26-A. The Government servant, who retires on or after the 31st December 2014 and whose increment falls due on the next day following the date of superannuation, in accordance with the provisions under rule 26, shall be sanctioned with one increment at the eligible rate, notionally on the afternoon of the date of retirement, purely for pensionary benefits only.

Provided that the Government Servant, who retired prior to 31st December 2014, is also eligible for sanction of annual increment notionally on the afternoon of the date of retirement for the purpose of revision of pension with monetary benefit with effect from 31st December 2014. The rate of notional increment shall not exceed the eligible rate based on the basic pay drawn by the Government Servant as on the date of retirement."

6. In view of the amendment issued by the Government, the petitioners are also eligible for notional annual increment. Accordingly, the respondents are directed to extend the benefit of G.O.Ms.No.311, Finance (CMPC) Department dated 31.12.2014 in favour of the writ petitioners and grant one notional annual increment for the purpose of retirement benefits. The said exercise is directed to be done within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. With these directions, all the four writ petitions stand allowed. No costs.

28.11.2022

Index : Yes
Speaking order :Yes
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To

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S.M.SUBRAMANIAM, J.

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