



WEB COPY



W.P.No.13550 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13550 of 2018

P.Mannathan

... Petitioner

Vs.

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

2.The General Manager
Tamil Nadu State Transport Corporation Ltd.,
Erode Region Office,
Chennimalai Road,
Erode – 638 001.

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

... Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to effect 01.09.2010 and 01.09.2013, Industrial Disputes Act 1947 Section 12(3) Wage Settlement benefits by revising the existing pay and to arrive at new



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last drawn wages for the purpose of terminal benefits already settled to him by way of paying arrears and to pay the unpaid terminal benefit of Earned Leave Salary and to pay the surrender Leave Salary surrendered during the service and also to revise the monthly pension now paid to him with arrears.

For Petitioner : Mr.A.Rajendiran
For R1 & R2 : Mr.M.Murali Vinoth
For R3 : Mr.C.S.K.Sathish

ORDER

The relief sought for in the present writ petition is to direct the respondents to implement the 12(3) Settlement entered into between the Management and the Employees Union under the Industrial Disputes Act, 1947.

2. The learned counsel appearing on behalf of the respondents made a submission that the revision of pay has already been effected in favour of the writ petitioner during the pendency of the writ petition.

3. The learned counsel for the petitioner states that some other grievances are yet to be redressed.



4. In respect of the petitioner, admittedly, he is a workman and governed under 12(3) settlement entered into between the parties under the Industrial Disputes Act. Disputed issues cannot be challenged in a writ proceedings under Article 226 of the Constitution of India. More so, the petitioner being a workman has to exhaust Statutory remedy contemplated under the Industrial Disputes Act.

5. The Labour Court is the Judicial Forum, wherein, the petitioner can adjudicate the issues with reference to the grievances and based on the documents and evidences. Even oral evidence, if required is to be taken. Therefore, High Court cannot consider such disputed issues in a writ proceeding and cannot grant the relief to implement the 12(3) Settlement under the Industrial Disputes Act. Roving enquiry cannot be conducted by the High Court, merely, based on the affidavit filed by the petitioner and counter affidavit filed by the respondents. It requires an effective adjudication with reference to the documents and evidences in original. Thus, at the first instance, he has to approach the Labour Court for adjudication of issues to redress his grievances. Contrarily, the practice of filing a writ petition to implement 12(3) Settlement under Industrial



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Disputes Act, at no circumstances be encouraged by this Court.

6. The principles in this regard have been elaborately considered by this Court in the case of ***P.Muthukrishnan Vs. The Management of the Tamil Nadu State Transport Corporation (Madurai) Ltd.***, reported in **[Manu/TN/4740/2019]**.

7. Therefore, the petitioner is at liberty to approach the competent authorities / Forum for the purpose of redressal of his grievances in the manner known to law. In the event of any such approach, the Forum shall consider the period during which the writ petition was pending before this Court and condone the delay, if any and adjudicate the issues on merits and in accordance with law as expeditiously as possible.

8. With this liberty, the Writ Petition stands disposed of. No costs.

12.10.2022

Jeni
Index : Yes
Speaking order



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S.M.SUBRAMANIAM, J.

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