



W.P.(MD) No.3730 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.3730 of 2020

N.Murugan

... Petitioner

-VS-

1.The Managing Director,
Tamil Nadu State Transport Corporation (KMB) Ltd.,
New Railway Station Road
Kumbakonam 612 001.

2.The General Manager,
Tamilnadu State Transport Corpn., (Kmb) Ltd.,
Karaikudi Region, Marudhupatti, Managiri Po,
Karaikudi, Sivagangai District

3.The Deputy Manager
(Personal and Legal) Tamilnadu State
Transport Corpn., (Kmb) Ltd., Karaikudi
Region, Marudhupatti, Managiri Po, Karaikudi,
Sivagangai District

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 3rd respondent in பார்வை



W.P.(MD) No.3730 of 2020

த.அ.பொக/நி.பி./ஆ2./1589 dated 28.12.2019 quash the same and direct the respondents to pay the petitioner's notional increment on his basic pay ie., Rs.71100+Rs.2100=Rs.73,200 as the notional increment and pension basic got increased from Rs.35,550/- to 36,600/- and the difference amount with regard to gratuity of Rs.95,737/- and leave salary amount will be Rs. 57,632/- within the time frame fixed by this Court.

For Petitioner : Mr.K.Gokul

For Respondents : Mr.P.Balasubramanian

ORDER

Challenging the impugned order of the 3rd respondent dated 28.12.2019 and for a consequential direction to the respondents to pay the petitioner's notional increment and the difference amount with regard to gratuity and leave salary, this writ petition has been filed.

2.It is the case of the petitioner that he was appointed as Cashier in the respondent Corporation on 28.12.1981 and was subsequently promoted as Assistant, Senior Assistant, Superintendent and Assistant Manager (Accounts) and retired from service on attaining the age of superannuation on 31.03.2019. It is the further case of the petitioner that as



W.P.(MD) No.3730 of 2020

per G.O.Ms.No.148 P&AR (FR-III) Department dated 31.10.2018, though the petitioner was promoted as Assistant Manager on 30.04.2018, he is entitled for annual increment from 01.04.2019 and hence, a representation was made to the respondents on 12.02.2019. As per G.O.Ms.No.140, Finance (Pay Cell) Department dated 25.04.2018, the annual increment and corresponding gratuity, leave salary are to be paid. However, the petitioner's representation was rejected by the third respondent stating that the same is not in practice and hence, the petitioner is before this Court challenging the same.

3. The learned counsel for the petitioner would submit that though the petitioner retired from service as early as on 31.03.2019 on attaining the age of superannuation, his increment, which is to be calculated from 01.04.2019, has to be granted by applying G.O.Ms.No.148 (P&AR) (FR-III) Department dated 31.10.2018 and by applying G.O.Ms.No.140, similar reliefs were granted to similarly placed persons. However, the rejection made by the third respondent is unsustainable. He would further submit that as per G.O.No.148, under 26(a) in ruling (13) for paragraph (ix)



W.P.(MD) No.3730 of 2020

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Fundamental Rules, the increment of a Government servant, which falls due in a quarter, may be sanctioned on the first day of that quarter even though he retires from surplus or expires period to the actual date of accrual of increment. However, the third respondent without adhering to the said G.O., straight away rejected the plea of the petitioner and also as per G.O.Ms.No.140, dated 25.04.2018, the petitioner is entitled for increment and hence, interference is warranted.

4. Per contra, the learned counsel for the respondent Corporation would submit that the petitioner is not entitled to be considered for one increment.

5. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

6. It is not in dispute that the petitioner has attained the age of superannuation and retired on 31.03.2019 and the petitioner got retired as Assistant Manager and his next increment falls on 01.04.2019. Since he



W.P.(MD) No.3730 of 2020

retired before the said date, the increment that has been accrued on 01.04.2019, has not been considered and considering the various judgments of this Court, G.O.Ms.No.140 dated 25.04.2018 was passed, whereby one increment has been sanctioned. For useful reference, the relevant portion in the said G.O.No.140 is extracted hereunder:

“6.After careful consideration of the various judgments passed by the Hon'ble High Court, the Government have decided to comply the orders of the Hon'ble High Court in favour of all eligible retired employees who have completed one full year of service and not sanctioned annual increment due to their superannuation prior to 31.12.2014. Accordingly, Government extend the benefit of sanction of annual increment to all the pensioners, who have filed various writ petitions and all other similarly placed persons who retired prior to 31.12.2014 and completed one full year of service for the purpose of revision of pension with monetary benefit prospectively with effect from 31.12.2014 ie., from the date of issue of G.O.Ms.No.311, Finance (CMPC) Department, dated 31.12.2014.”



W.P.(MD) No.3730 of 2020

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7. Considering the facts and circumstances of the case and in view of the amended provision under Fundamental Rules 26, the impugned order is set aside and the respondent shall sanction one increment to the petitioner in terms of G.O.Ms.No.148, within a period of six weeks from the date of receipt of a copy of this order. No costs.

06.12.2022

Index : Yes
Internet : Yes/No

RR

To

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W.P.(MD) No.3730 of 2020

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W.P.(MD) No.3730 of 2020

06.12.2022