



W.P.No.291 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.291 of 2020

C.Gunasekaran

... Petitioner

Vs.

1.The Tamil Nadu State,
Rep. by its Principal Secretary to Government,
Transport Department,
Secretariat, Chennai 600 009.

2.The Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Rep by its Managing Director,
Railway Station New Road,
Kumbakonam.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to settle a sum of Rs.8,00,000/- towards commutation of pension amount, a sum of Rs.35,000/- towards arrears of 4th review, a sum of Rs.1,10,840/- towards earned leave salary for 68 days for the year from 2010 to 2018.



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For Petitioner : Mr.D.Soundar Raj

For Respondents : Mr.G.Nanmaran, SGP for R1
Mr.C.Senapathy, Standing Counsel for R2

ORDER

This Writ Petition has been filed seeking issuance of Writ of Mandamus to direct the respondents to settle a sum of Rs.8,00,000/- towards commutation of pension amount, a sum of Rs.35,000/- towards arrears of 4th review, a sum of Rs.1,10,840/- towards earned leave salary for 68 days for the year from 2010 to 2018.

2. Heard Mr.D.Soundar Raj, learned counsel for the petitioner and Mr.G.Nanmaran, learned Special Government Pleader for R1 and Mr.C.Senapathy, learned Standing Counsel for R2.

3. The facts of case in brief are as follows:

The petitioner was working as a Driver with the second respondent Corporation from 11.01.1986 and retired from service on 31.03.2018 without prejudice to the criminal proceedings pending against him. No disciplinary proceedings has been taken against the petitioner so far. The



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petitioner has already filed a Writ Petition in W.P.No.17006 of 2018 for seeking direction to settle the terminal benefits. In view of the order passed in the said Writ Petition on 11.04.2019, the second respondent settled the terminal benefits due to the petitioner. However, the petitioner is said to have eligible for getting the commutation of pension amount, 4th review benefits and earned leave salary. Hence the petitioner has filed this Writ Petition seeking the above prayer.

4. The learned Standing Counsel for the second respondent submitted that the petitioner has not given any option with regard to commutation of pension and that is the reason why the commutation has not been granted to him. It is further submitted by the learned Standing Counsel for the second respondent that criminal proceedings are pending against the petitioner and hence the petitioner is not eligible to claim the benefits of 4th review.

5. When the 4th review was done in the year 2005, the petitioner was very much in service. So the wage revision, if any, done subsequent



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to the said review should be given to all those who were in service at that relevant point of time. Since the petitioner continued to be in service even though the criminal proceedings were pending against him, the second respondent cannot deny the benefits of 4th review to him.

6. With regard to the commutation, it is submitted by the learned counsel for the petitioner that the petitioner has already given his option. But the second respondent has stated that the option was not given. Though it is submitted by the second respondent that the option to commute the pension has not been given, the same has not been substantiated by producing any documents. It is quite natural that any employee who chooses to go away from the Department on retirement would give the option to commute the pension. The petitioner has stated that he has given his option and hence even that can be taken as his exercise of option and the second respondent shall consider the sanction of commutation as well.



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7. The learned counsel for the petitioner further submitted that the petitioner has also surrendered his leave and surrendered pay has also not been paid to him. The second respondent shall settle such arrears also, if the petitioner is found eligible.

8. With the above observations, this Writ Petition is allowed and the second respondent is directed to settle a sum of Rs.8,00,000/- towards commutation of pension amount, a sum of Rs.35,000/- towards arrears of 4th review, a sum of Rs.1,10,840/- towards earned leave salary for 68 days for the year from 2010 to 2018 to the petitioner. No costs.

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Index : Yes
Internet : Yes/No
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R.N.MANJULA, J.

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To

- 1.The Principal Secretary to Government,
Transport Department,
Secretariat, Chennai 600 009.
- 2.The Managing Director,
The Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Railway Station New Road,
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