IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.Nos.9240 and 9245 of 2019

W.P.No.9240 of 2019:

1.P.Senguttuvan
2.M.Murugan ... Petitioners

Vs.

1.The Additional Chief Secretary,
Transport Department,
St. George Fort,
Chennai – 600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Salem) Limited,
Ramakrishna Road,
Salem 636 007.

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

W.P.No.9245 of 2019:

N.Arumugam ... Petitioner

Vs.

1.The Additional Chief Secretary,
Transport Department,
St. George Fort,
Chennai – 600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Salem) Limited,
Ramakrishna Road,
Salem 636 007.

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

Prayer in W.P.No.9240 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in E2/1857/TNSTC(SLM)/2016 dated 04.06.2016 and to quash the portion of the order which directs for implementing the benefits of notional basis and consequently, direct the respondents to introduce the benefits monetarily and also to direct the respondents to pay the arrears of benefits along with the revised terminal benefits paid to the petitioner and to pay the arrears of terminal benefits along with the interest @18% per annum.

<u>Prayer in W.P.No.9245 of 2019:</u> Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in E2/1857/TNSTC(SLM)/2016 dated 04.06.2016 and to quash the portion of the order which directs for implementing the benefits of notional basis and consequently, direct the respondents to introduce the benefits monetarily and also to direct the respondents to pay the arrears of benefits along with the revised terminal benefits paid to the petitioner and to pay the arrears of terminal benefits along with the interest @18% per annum.

For Petitioners : Mr.J.Pradeep

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader
for R1

Mr.R.Babu for R2

Mr.C.S.K.Sathish for R3

COMMON ORDER

This petition has been filed to quash the portion of the order which directs for implementing the benefits of notional basis of the 2nd respondent dated 04.06.2016 and consequently, direct the respondents to introduce the benefits monetarily and also to direct the respondents to pay the arrears of benefits along with the revised terminal benefits paid to the petitioner and to pay the arrears of terminal benefits along with the interest @18% per annum.

2.The 1st petitioner joined as an Assistant Supervisor and the 2nd petitioner as an Assistant Foreman and the petitioner in W.P.No.9245 of 2019 as an Junior Manager. They were promoted as Assistant Manager and further promoted as Selection Grade Assistant Manager. Thereafter, they retired as Deputy Manger. The petitioner in W.P.No.9245 of 2019 retired on 31.07.2014 under the Voluntarily Retired Scheme. On the promotion of the petitioners to the post of Selection Grade Assistant Managers, they were languishing in the said post for a period of more than 10 years for want of vacancies in the higher post. In the meantime, these petitioners were redesignated as Deputy Manager without change of the Grade pay and scale of pay. Since there were no vacancies available the petitioners were unable to have any promotional chances to next avenue of promotion.

3.The learned counsel for the petitioners would submit that taking plight of the languishing of various employees in various posts, the Government of Tamil Nadu Introduced stagnation increments to the Government Employees who were without any chance of promotion to the merit avenue of promotion for 10 years. Such stagnation Increments were enjoined to the Cadres who were drawing scale of pay of Rs.6,600/- & above in the Government Post on completing 10 years service in such cadre. The Government introduced such benefit, as per the VI Pay Commission Recommendations to the Government and the persons whose scale of pay were governed by the Government pattern of pay scale. Such stagnation increment was enjoined as under Clause 5 of G.O.Ms.No.234 Finance (Pay Cell) Dept, dated 01.06.2009. The Government pay scale were also applicable to the petitioners in the managerial cadre of the Transport

Corporations, but the benefits were not granted. Hence the Petitioners were constrained to make representations dated 24.09.2018 and 27.09.2018 to the 1st respondent and the petitioner in W.P.No.9245 of 2019 dated 01.10.2018. In pursuance to the representations made, an office order dated 04.06.2016 was passed by the 2nd respondent extending the benefits of granting the increment benefits as per the above said Government Order giving monetary benefits with effect from 01.06.2016 instead of 15.07.2013 and 13.01.2013 respectively. Thereafter, yet an another order dated 25.06.2016 was passed modifying the earlier order passed on 04.06.2016. The partial modification is that the stagnation increment in respect of the offices on roll is sanctioned with effect from the date noted against each and monetary benefits for the stagnation increment is with effect from 01.06.2016. He further submit that the stagnation increment in respect of the offices who were retired from services/voluntarily retired are notionally fixed with effect from the date noted against each i.e., 15.07.2013, 13.01.2013 and 07.02.2014 respectively and the revised basic is allowed for calculating pensionary benefits only.

4.The learned counsel appearing for the petitioners would submit that the benefits were restricted notionally only and that too for calculating the pensionary benefits alone. Such approach was against the Tamil Nadu Pay scale Rules, 2009 which was framed as under G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009. Once the benefits are introduced for a class of employee, restricting such benefits for one set of employees on notionally and for calculating benefits alone and other by a monetary basis and for all terminal benefits and pay arrears is bad in the eye of law. Hence, this Writ Petition.

5.The learned Additional Government Advocate appearing for the respondents would submit that the 2nd respondent by proceedings dated 18.08.2022 issued a partial modification order to five persons including the petitioners. The stagnation increment in respect of the officers on roll is sanctioned with effect from the date noted against each and monetary benefits from stagnation increment is with effect from 01.06.2016 onwards. The stagnation increment in respect of the officers who were retired from service voluntarily retired or notionally fixed with effect from the date noted against each and the revised basic is allowed for calculating the pensionary benefits only. No arrear will be paid to the retired/voluntarily retired officers in this regard.

6.On perusal of the records, it is seen that the 2nd respondent by proceedings dated 18.08.2022 issued a partial modification order to the five persons including the petitioners dated 25.06.2016 stating that the stagnation increment in respect of the officers on roll is sanctioned with effect from the date noted to the 1st petitioner is 15.07.2013 and to the 2nd petitioner is 13.01.2013 and the petitioner in W.P.No.9245 of 2019 is 07.02.2014 and also the monetary benefits from stagnation increment is with effect from 01.06.2016 onwards. The stagnation increment in respect of the officers who were retired from service voluntarily retired or notionally fixed with effect from the date noted against each and the revised basic is allowed for calculating the pensionary benefits only. No arrear will be paid to the retired/voluntarily retired officers in this regard. The 2nd resondent has forwarded the calculation sheet to the 3rd respondent dated 25.06.2016 itself. As per the modification, the stagnation increment has been paid from 13.01.2013 to the 2nd petitioner and from 15.07.2013 to the 1st petitioner and the petitioner in W.P.No.9245 of 2019 is 07.02.2014.

Accodingly, these Writ Petiitons are disposed of. The 3rd respondent is directed to pass appropriate orders on the calculation sheet forwarded by the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order. No costs.

15.11.2023

Index : Yes/No
Speaking order:Yes/No
Neutral citation:Yes/No
mps

To

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V.BHAVANI SUBBAROYAN, J,

mps

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