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W.P.No.3708 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.3708 of 2023

C.Franklin Sampath Cecil

... Petitioner

Vs.

1.The Managing Director,
Metropolitan Transport Corporation (Chennai) Limited,
Pallavan Illam, Pallavan Salai,
Chennai 600002.

2.The Chief Financial Officer,
Metropolitan Transport Corporation (Chennai) Limited,
Pallavan Illam, Pallavan Salai,
Chennai 600 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent order No. Vu. Ku. No. 28006 / Gratuity Section - 3 / MTC / 2022 dated 14.12.2022 quash the same and consequently direct the respondents to pay to the petitioner difference in gratuity and surrender leave with 12% interest.

For Petitioner : Mr.S.T.Varadarajalu

For R1 and R2 : Mr.R.Balaji



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ORDER

Challenge in this writ petition is to the order dated 14.12.2022 passed by the 2nd respondent refusing to pay the difference in gratuity as per 7th Pay Commission for the employees who have retired prior to 01.10.2017.

2.The petitioner is a retired employee of the respondent Corporation. He retired as Selection Grade Assistant Engineer on 31.05.2017 on attaining the age of superannuation, before 01.10.2017. He was settled terminal benefits as per the recommendations made in 6th Pay Commission. After his retirement, the Government of Tamil Nadu had implemented the recommendations of the 7th Pay Commission and revised the pay and allowances accordingly, which came into effect from 01.01.2016, however, monetary benefits were given effect from 01.10.2017. The respondent Corporation revised the pay to the serving employees in April 2018 and for the retired employees in October, 2019 only. However, the respondent corporation had not settled the revised service / terminal benefits such as difference in leave salary and difference in gratuity as per the recommendations of 7th Pay Commission and surrendered Earned Leave Salary while on service. The 2nd respondent, by



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order dated 14.12.2022, declined to grant the reliefs claimed by the petitioner which is nothing but illegal and the same is liable to be set aside.

3.Heard both sides.

4.The grievance of the petitioner is that the gratuity and leave surrender salary were not paid to him as per the recommendations made under 7th Pay Commission.

5.The learned counsel for the petitioner submitted that, after filing of this writ petition, the State Government, by its letter dated 25.05.2023, has, in fact, agreed and clarified that, as per 7th Pay Commission and G.O.(Ms) No.134, Transport (D) Department dated 09.04.2018, the employees who have retired during the period from 01.01.2016 to 08.04.2018 are entitled to the revised new pay structure and on that basis, gratuity (DCRG) and leave Salary shall be calculated and paid to them.

6.The learned counsel appearing for the respondents has not



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disputed the above factual position.

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7.A perusal of the Government letter referred to above makes it clear that the petitioner who has retired between 01.01.2016 and 08.04.2018 is entitled to revised pay structure and as such, he is entitled to difference in gratuity and leave salary. The petitioner cannot be denied such benefits. Therefore, the order impugned in the writ petition denying the difference in payment of gratuity and leave salary, is liable to be quashed.

8.In the result, this writ petition is allowed. The impugned order of the 2nd respondent, dated 14.12.2022, is quashed. The respondents are directed to calculate the difference in payment of gratuity and leave salary as per rules and taking into consideration the clarification letter of the Additional Chief Secretary to Government of Tamil Nadu, Department of Transport, dated 25.05.2023, referred to above and settle the same together with applicable interest, if any, as per rules within a period of two months from the date of receipt of a copy of this order. No costs.

21.09.2023

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Internet : Yes

<https://www.mhc.tn.gov.in/judis>



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Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order

To

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Chennai 600002.

2.The Chief Financial Officer,
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