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W.P. No. 6004 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2023

CORAM

THE HONOURABLE MR. JUSTICE P.D.AUDIKEVALU

W.P. No. 6004 of 2020

1. N.Subramanian (Died)

2. P.S.Jamuna

3. S.Yogeshwar

4. S.Omeshwar

[P2 to P4 substituted as LR's of
deceased sole Petitioner]

... Petitioners

VS.

1. The Managing Director,

Metropolitan Transport Corporation (Chennai) Ltd.,

2, Pallavan Illam,

Anna Salai, Chennai – 600 002.

2. The Administrator,

Tamil Nadu State Transport Corporation Employees'

Pension Fund Trust,

Thiruvalluvar 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 Mandamus, directing the respondents to return a sum of Rs.1,90,848/- to the Petitioner, the amount deducted in pension for 24 months with 12% interest from January 2018 till the date of payment.



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For Petitioners : Mr. S.T.Varadarajulu

For Respondents : Mr. R.Balaji (R1)
Standing Counsel

: Mr. C.S.K.Sathish (R2)

ORDER

Heard Mr. S.T.Varadarajulu, Learned Counsel for the Petitioner, Mr. R.Balaji, learned Standing Counsel appearing for the First Respondent and Mr. C.S.K.Sathish, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. Since the Original Petitioner died on 24.06.2021 after the filing of the Writ Petition, his legal representatives, viz., S.Jamuna, S.Yogeshwar and S.Omeshwar, have been substituted as the Petitioners in the Writ Petition in his place by order dated 09.09.2022 in W.M.P. No. 19142 of 2022 passed by the Court.

3. The Original Petitioner, who was working as Assistant Manager in the Transport Corporation of the First Respondent, attained the age of superannuation on 31.01.2016, and as disciplinary proceedings were then



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pending against him, he was not paid the full amount of pension due from that date. In such circumstances, the First Respondent by proceedings in Note No.44008/FP5/Pen/MTC/2016 dated 20.02.2016 had passed the following order in respect of sanction of provisional pension:-

“Sanction of Provisional Pension:

The Disciplinary Proceedings already initiated against him shall be continued as per reference 2nd cited and final orders not yet passed. In the above circumstances, the Officer has submitted his Pension application form and requested for Pension.

The G.O.(D) No.85, Transport (D) Department dated 13.4.2006 under reference 4th cited, stated that, 'As per Rule 19(B) of TNSTC Pension Rules, the above officer against whom the disciplinary proceedings are pending, is eligible for 75% of Maximum Pension as Provisional Pension. The remaining 25% of Provisional Pension shall be considered as withheld amount for the purpose of any future recovery to be ordered in the disciplinary cases.



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Submitted for orders, whether we may follow the
G.O.(D) 85 dated 13.04.2006 and sanction Provisional Pension
of 75% as per Rule 19(B) of TNSTC Pension Rules. ”

It is informed that in furtherance of the said order, 25% of the pension amount due to the original Petitioner aggregating to Rs.1,90,848/- has been withheld by the Second Respondent.

4. The disciplinary proceedings against the Original Petitioner ultimately culminated in the order in Proceedings No.31531/Legal-(CM)/MTC/2012 dated 21.12.2017 in which the following order was passed:-

“Therefore, the Provisionally concluded punishment is confirmed and it is ordered to postpone your annual increment for one year without cumulative effect along with a recovery of Rs.2.502/- for the proved charges.”

5. It is the case of the Petitioners that the Original Petitioner had thereafter made payment of Rs. 26,532/- to the First Respondent by Receipt No.03373 dated 22.12.2017 and he had made a representation dated 13.02.2022 for refund of the withheld amount of pension to the Second

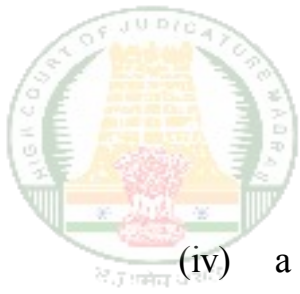


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Respondent. However, as it did not evoke any response, this Writ Petition has been filed.

6. Having regard to the limited scope of the relief sought in the Writ Petition, this Court without expressing any view on the merits of controversy involved, passes the following order:-

- (i) the concerned authority shall immediately examine the representation dated 13.02.2020 made by the Original Petitioner including ascertaining as to whether the Petitioners would be entitled for the relief claimed;
- (ii) if it is found that any other details or supporting documents are necessary, the deficiencies in that regard shall be informed in writing to the Petitioners requiring the same to be furnished within a time frame of not less than 15 days for the same;
- (iii) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioners and all other persons concerned to explain their position in that regard;



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- (iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated by 30.09.2023 under written acknowledgment;
- (v) if the Petitioners are found entitled to any monetary benefits, the same shall be paid along with working-sheet showing its calculation within a period of three months from the date of passing of that order; and
- (vi) the report of such compliance shall be filed before the Registrar (Judicial) of this Court.

In the result, the Writ Petition is disposed on the aforesaid terms.

No costs.

07.03.2023

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No

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To

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P.D.AUDIKESAVALU, J.

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