



WEB COPY



W.P.No.8690 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.8690 of 2022
and W.M.P.No.8611 of 2022

1. Mr.W.Benyamin
2. Mr.B.K.Kathiravan
3. Mr.V.Loganathan
4. Mr.D.John Thoma
5. Mr.C.Ravichandran
6. Mr.R.Krishnamoorthy
7. Mr.R.Periyasamy
8. Mr.G.Balachandar
9. Mr.S.Perumal
10. Mr.N.Parthsarathy
11. Mr.R.Selvam
13. Mr.D.Sundaram
14. Mr.M.Mohammed Ilyas
15. Mr.S.Anbalagan
16. Mr.S.P.Devarajan
17. Mr.S.Puvaneswaran
18. Mr.N.Bhuvaneswaran
19. Mr.G.Gnanasekaran

...Petitioners

Vs

1. The Director,
Institute of Road Transport,
Taramani, Chennai – 600 113.
2. The Principal,
Institute of Road and Transport Technology, Erode.



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3. The Principal Secretary to Government,
Department of Higher Education, Fort St.George,
Chennai – 600 009.

...Respondents

[R3 impleaded vide order dated 21.09.2023 made in W.M.P.No.26982 of 2023 in W.P.No.8690 of 2022 by NSKJ]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to pay the arrears of salary, gratuity, earn leave encashment and 7th pay commission salary arrears as G.O.Ms.No.303, Finance (Pay Cell) Department, dated 11.10.2017 as approved by the Governing Council of the respondents institutions in the G.C. Meeting held on 29.10.2018 to the petitioners within a time as fixed by this Court.

For Petitioners : Mr.R.Kannan

For Respondents : Mr.T.Chandrasekaran [R1 & R2]
Mr.M.Alagu Gowtham
Government Advocate [R3]

ORDER

This writ petition is filed to direct the respondents to pay the arrears of salary, gratuity, earn leave encashment and 7th pay commission salary arrears as per G.O.Ms.No.303, Finance (Pay Cell) Department, dated 11.10.2017 as approved by the Governing Council of the respondents institutions in the G.C. Meeting held on 29.10.2018 to the petitioners within a time as fixed by this Court.



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2. All the petitioners herein are the employees of the Institute of Road Transport/first respondent herein who had retired from their services in the year 2016 to 2019. The Government had implemented the recommendation of the VII Pay Commission to the pensioners also and accordingly, the petitioners' pensionary benefits also requires to be revised. When the first respondent herein had failed to do so, they made a representation on 09.02.2022 seeking for the revised pension as per the VII Pay Commission recommendation and in view of the non-consideration of their representation, the present writ petition has been filed.

3. Learned counsel for the petitioners submitted that there is absolutely no impediment for the respondents to extend the benefits of the VII Pay Commission Recommendations to them and that since more than five years have been lapsed and the first respondent has failed to revised the pensionary benefits, they would be entitled for the interest on the arrears of revised pension.



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4. *Per contra*, learned counsel appearing for the first respondent submitted that all the assets of the Road Transport company has been taken over by the Government and therefore, since there are financial constraint for the first respondent, it is a liability of the Government to pay arrears of the revised pension.

5. Learned Government Advocate appearing for the third respondent submitted that all the petitioners herein were appointed and retired from their services only under the first respondent herein and therefore, they were at no point of time in the employer/employee relationship with the Government. Thus, the Government is no way liable to pay the arrears of the revised pensionary benefits.

6. It is not in dispute that all the petitioners herein had retired from service under the first respondent. If that be so, this Court unable to comprehend as to how the liability of the petitioners' claim can fix on the Government, under whom the petitioners had never served.



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7. The fact that all the petitioners herein could be entitled for the monetary benefits pursuant to the recommendations of the VII Pay Commission by the Government is not in dispute. Merely because the first respondent is facing certain financial constraints, the benefits of the recommendations by the VII Pay Commission cannot be, by any stretch of imagination, be deprived to them. The fact that these liabilities have been denied for more than 5 years, hence, this Court is of the view that the petitioners are entitled to interest on the arrears of the benefits.

8. In the light of the above observations and findings, there shall be a direction to the first respondent herein to forthwith revised the pension payable to each petitioners herein as per the recommendations of the VII Pay Commission, which was implemented through G.O.Ms.No.303, Finance (Pay Cell) Department, dated 11.10.2017 with effect from 01.01.2016 and the monetary benefits with effect from 01.10.2017 and disburse the arrears together with interest at the rate of 6% per annum from the date on which its due. Such orders for disbursement shall be made atleast within a period of three(3) months from the date of receipt of a copy of this order.



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M.S.RAMESH,J.

mp

With the above observations, this writ petition stands allowed. No costs. Connected miscellaneous petition is closed.

06.11.2023

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

mp

To

1. The Director,
Institute of Road Transport,
Taramani, Chennai – 600 113.
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Institute of Road and Transport Technology, Erode.
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