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W.P.No.19737 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.19737 of 2023

V.Natarajaiah

... Petitioner

Vs.

1.M/s.The State of Tamil Nadu,
Represented by its Additional Chief Secretary to Government,
Transport Department,
Secretariat, Chennai – 600 009.

2.M/s.Tamil Nadu State Transport Corporation,
(Salem) Ltd.,
Represented by its Managing Director,
Ramakrishna Road,
Salem – 636 007.

... 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 in his impugned proceedings in Lr.No.Ka.No.E4/0062/Tha.A.Po.Ka/Salem/2023 dated 23.03.2023 and quash the same and consequently direct the 2nd respondent to pay the arrears of retirement benefits amounts to Rs.7,05,056/- to the petitioner herein.

For Petitioner : Mr.D.Soundar Raj

For R1 : Mr.P.Baladhandayutham
Special Government Pleader

For R2 : Mr.K.Raja



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ORDER

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This writ petition has been filed challenging the order of the 2nd respondent, dated 23.03.2023, and to direct the 2nd respondent to pay the arrears of retirement benefits, amounts to Rs.7,05,056/-, to the petitioner.

2.The petitioner states that he retired from services on 30.06.2016 from the 2nd respondent Corporation on attaining the age of superannuation. 7th Pay Commission recommendations were implemented to the officers of Tamil Nadu State Transport Corporation, vide Government Orders in G.O.(Ms) No.134, Transport (D) Department, dated 09.04.2018, pertaining to serving employees, and G.O.(Ms) No.142, Transport (D) Department, dated 26.08.2019, pertaining to the retired employees, giving notional effect from 01.01.2016 and with monetary benefit prospectively. It is the case of the petitioner that, as per G.O.Ms.No.313, Finance (Pay Cell) Department, dated 25.10.2017, the petitioner is entitled to payment of difference in encashment of Leave Salary of 240 days. The petitioner filed a writ petition in W.P.No.27818 of 2022 for payment of balance terminal benefits to the petitioner. This Court, by order dated 19.10.2022 in W.P.No.27818 of 2022, disposed of the said writ petition by directing the 2nd respondent to consider the



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representation of the petitioner seeking payment of balance of terminal benefits within eight weeks from the date of receipt of a copy of the order.

Pursuant to the orders of this Court, the 2nd respondent has passed the impugned order, dated 23.03.2023, informing the petitioner that the petitioner is not entitled to difference in encashment of Leave Salary, mainly on the ground that, as per G.O.Ms.No.303, Finance (Pay Cell) Department, dated 11.10.2017, the notional effect is from 01.01.2016 and the monetary benefit takes effect from 01.10.2017, whereas, the petitioner retired from service on 30.06.2016. Challenging the said order, the present writ petition has been filed.

3.Learned counsel for the petitioner submits that, as per Clause 21(1) of G.O.Ms.No.313, Finance (Pay Cell) Department, dated 25.10.2017, the rates of payment of death gratuity shall be revised with effect from 01.01.2016 and as per Clause 24(2) of the said Government Order, consequent to the revision of pay notionally with effect from 01.01.2016 to 30.09.2017, pensioners/family pensioners who have availed leave encashment calculated based on pre-revised scale of pay consequent to retirement/death of Government employee between 01.01.2016 and 30.09.2017 shall be paid the difference between leave encashment entitled



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based on revised pay structure and leave encashment already sanctioned

based on pre-revised scale of pay.

4.The learned counsel further brought to the notice of this Court the clarification letter issued by the 1st respondent in Letter No.e file/1706/C.1/2023-1, dated 25.05.2023, wherein, it is stated that, as per the recommendation of 7th Pay Commission and G.O.(Ms) No.134, Transport (D) Department, dated 09.04.2018, the difference amount in Gratuity (DCRG) and Leave Salary as per the revised basic can be calculated and paid to the eligible employees of Transport Corporation, those who retired between 01.01.2016 and 08.04.2018. Therefore, the learned counsel submitted that, even as per the recommendations of the 1st respondent, the petitioner is entitled to payment of the difference in encashment of Leave Salary.

5.Finding force in the submissions of the learned counsel for the petitioner, the impugned order passed by the 2nd respondent, dated 23.03.2023, is set aside and the 2nd respondent is directed to consider the case of the petitioner in the light of the Government Orders and letter relied upon by the petitioner *supra*, and if the petitioner is found entitled to



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payment of difference amount as per the Government Orders and letter referred above, the 2nd respondent shall calculate the difference in Leave Salary and disburse the same to the petitioner, within a period of two months from the date of receipt of a copy of this order.

6. Accordingly, this writ petition is disposed of. No costs.

20.07.2023

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order

To

1. The Additional Chief Secretary to Government,
State of Tamil Nadu,
Transport Department,
Secretariat, Chennai – 600 009.

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

N. SATHISH KUMAR, J.



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