



W.P.Nos.25385 and 25387 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.Nos.25385 and 25387 of 2019

K.Asiam
G.Mani

... Petitioner in W.P.No.25385 of 2019
... Petitioner in W.P.No.25387 of 2019

Vs.

1. The Managing Director,
Tamilnadu State Transport Corporation
(Salem) Ltd.,
12, Ramakrishna Salai,
Salem – 636 007

2. The Administrator,
Tamilnadu State Transport
Corporation Employees Pension Trust,
Administrative Office,
Thiruvalluvar House,
Pallavan Salai,
Chennai – 600 002

...Respondents in both the petitions

Writ Petitions have been filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the respondents to pay the difference in payment of Salary, Leave Salary, Gratuity, Pension and Commutation in view of the settlement arrived on 22.01.2011 under Section 12(3) of Industrial Disputes Act with interest at the rate of 6% per annum till the realisation of the amount.



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For Petitioners : Mr.G.Pugazhenthir in both the petitions

For Respondents : Mr.R.Babu for R1
Mr.C.S.K.Sathish for R2 in both W.Ps.

COMMON ORDER

Since the issues involved in these petitions are one and the same, they are taken up together and a common order is being passed.

2. The present Writ Petitions have been filed for issuance of a Writ of Mandamus directing the respondents to pay the difference in payment of Salary, Leave Salary, Gratuity, Pension and Commutation in view of the settlement arrived on 22.01.2011 under Section 12(3) of Industrial Disputes Act with interest at the rate of 6% per annum till the realisation of the amount.

3. The brief facts of the case are as follows:-

(i) The petitioners have entered the service as record clerk on 28.12.1985 and 25.11.1981 in the respondent / Corporation respectively and were promoted as Senior Assistant with effect from 01.02.2010 and 01.05.2008 respectively. Thereafter, the petitioners were re-designated as 'Senior Assistant – Level-5' with effect from 01.02.2015 and 01.05.2011



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respectively and retired from services on 28.02.2015 and 28.02.2014 respectively on attaining the age of superannuation. The petitioners were awarded with 4 reviews and the 5th review was awarded with effect from 01.02.2015 and 01.05.2011 respectively and there was a settlement on 22.01.2011 under Section 12(3) of the Industrial Disputes Act, 1947 between the respondent corporation and the employees union before the Deputy Commissioner of Labour, Chennai with regard to the wage revision of the employees of the corporation with effect from 01.09.2010. There was another settlement arrived on 13.04.2015 under Section 12(3) of the Industrial Disputes Act, 1947 with effect from 01.09.2013.

(ii) At the time of awarding 4th review, the petitioners were awarded with the basic pay of Rs.14,650/- and Rs.11,695/- with grade pay of Rs.2,450/- from 01.02.2015 and 01.05.2011 respectively. The said 4th review is equivalent to Level-5 and as per the said Level 5, the pay band would be revised to Rs.9,300 – 34,800 with grade pay of Rs.4,200/-. Since the petitioners were awarded 4th Review with effect from 01.02.2015 and 01.05.2011 respectively, the petitioners monthly salary ought to have revised as Rs.14,690/- and Rs.11,695/- towards basic pay and Rs.4,200/- towards grade pay, but the petitioners were paid only a sum of Rs.13,750/- and Rs.11,285/- as basic pay and Rs.2,450/- as grade pay. On account of



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this lesser scale of pay, the retirement benefits were calculated and paid by the respondents, therefore, there is difference in payment of salary, leave salary, pension, commutation etc., payable to the petitioners.

(iii) Since the respondents failed to pay the above said benefits even after several months from the date of retirement and the petitioners are entitled for interest at the rate of 6% per annum for the amount due from the respondents, the petitioners have come up with these petitions.

4. The learned counsel for the petitioners would submit that the respondents promised to pay the arrears of settlement benefits due to the petitioners, based on the government order, but now, refused to pay the same, which amounts to clear violation of principle of promissory estoppel, thereby pleaded for a direction to pay the same.

5. On the other hand, the learned standing counsels appearing on behalf of the respondents submits that the case of the petitioners will be considered strictly in accordance with law. Further, the petitioners have claimed interest at the rate of 6%, if the petitioners are found eligible, appropriate orders will be passed fixing the interest prevailing as on date within a time to be fixed by this Court.



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6. Considering the above said facts and circumstances of the case there shall be a direction to the respondents to consider the case of petitioners by paying the difference in payment of salary, leave salary, gratuity, pension and commutation, less the amount already paid, in view of settlement arrived at under Section 12(3) of Industrial Disputes Act and to pay interest at the rate of 4% for the belated payment and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order, if there is no legal impediment.

In view of the above, the present Writ Petitions are disposed of. No costs.

18.12.2023

Index : Yes/No
Internet : Yes/No
Speaking order / non speaking order
ssd



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To

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V.BHAVANI SUBBAROYAN, J.,

ssd

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