



W.P(MD)No.3609 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3609 of 2020
and
W.M.P.(MD)No.3051 of 2020

S.Sampath

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Transport Department,
Secretariat,
Chennai-600 009.

2.The Managing Director,
TNSTC (Madurai) Limited,
Bye Pass Road,
Madurai-625 016.

3.The Administrator,
TNSTC Employees Pension Fund Trust,
Office of the SETC HO,
Thiruvalluvar House,
Pallavan Salai,
Chennai-600 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned G.O.Ms.no.330 (Transport (C.1) dept) dated



W.P(MD)No.3609 of 2020

31.10.2018 on the file of the respondent no.1 and quash the same as illegal and consequently direct the respondents 1 to 3 to re-fix the pay of the petitioner by adopting 2.57 multiplier/matrix on par with 7th pay revision from the date of promotion with subsequent increments and to revise the terminal benefits accordingly.

For Petitioner : Mr.R.Karunanidhi

For Respondent : Mr.T.Villavankothai
Additional Government Pleader for R1
: Mr.Veerakathiravan
assisted by
Mr.J.Senthil Kumaraiah
Standing Counsel for R2 & R3

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General assisted by the learned standing counsel appearing for the respondent Corporation.

2. The writ petitioner joined the Pandian Roadways Corporation Limited as Clerk on 16.06.1980. The said corporation was bifurcated and later named as TNSTC, Madurai limited. He was promoted from the post of Senior Assistant to the post of Superintendent with effect from 04.03.2017. The grievance of the petitioner is that similarly placed



W.P(MD)No.3609 of 2020

employees were granted 2.57 multiplier/matrix fixation during the current 7th pay pattern. But in the case of the petitioner, 2.44 multiplier alone was granted. This was on account of the operation of G.O.Ms.No. 330 Transport Department dated 31.10.2018. Hence, he has challenged the validity of the said G.O on the grounds mentioned in the affidavit filed in support of the writ petition.

3. The transport corporation has filed counter affidavit and the learned Additional Advocate General took me through its contents. His contention is that the impugned G.O is the outcome several rounds of discussion involving high ranking officers and also a former Judge of this Court. In matters such as pay fixation, scope for judicial review is limited. He pressed for dismissal of the writ petition.

4. I carefully considered the rival contentions and went through the materials on record. The stand of the respondents is that the employees working in the respondent corporation will fall under one of the two patterns:-



W.P(MD)No.3609 of 2020

A. Workmen covered by the settlement under Section 12(3) of the Industrial Dispute Act.

B. Employees in supervisory and managerial cadre getting pay as per the Government pattern.

Persons like the petitioner who were workmen subsequently migrated from the workman category to the supervisory category. Issue arose regarding their fixation of pay while implementing the Tamil Nadu Revised Pay Rules, 2017. One Man Committee was constituted. The said committee recommended adopting 2.44 multiplier factor in respect of those who have been promoted to supervisory and managerial cadre. Following the representations made by the association that 2.57 multiplier factor should be adopted, an arbitrator (Hon'ble Justice E.Padmanabhan (Rtd.) was appointed as the sole arbitrator. The Hon'ble Arbitrator went into the issue and after several rounds of discussion, passed the award on 26.03.2018. Purporting to implement the said award, the impugned G.O came to be issued. The only question that calls for consideration is whether the impugned G.O can be applied in the case of the petitioner.



W.P(MD)No.3609 of 2020

5. The issue is whether 2.44 multiplier should be adopted or 2.57 multiplier should be adopted for the petitioner. The operative portion of the G.O is as follows:-

“5. Hence the committee has concluded that the existing benefit allowed in G.O.(Ms)No.220, Transport (C.1) Department, dated 23.07.2018 ie., applying 2.44 multiplier factor to the Technical / Administrative Supervisory category employees who have been promoted and migrated to Government scale of pay pattern between 01.01.2016 and 31.08.2016 as well as after 01.09.2016 (ie., after getting the benefit of wage settlement, 2016) is reasonable and the same may be continued.

6. The Government after careful examination has decided to accept the report of the committee in para 4 and 5 above and direct the Managing Directors of all State Transport Undertakings to continue the existing benefit allowed in G.O.(Ms)No.220, Transport (C.1) Department, dated 23.07.2018, ie., applying 2.44 multiplier factor to the Technical / Administrative Supervisory category employees who have been promoted and migrated to Government scale of pay pattern between 01.01.2016 and 31.08.2016 as well as after 01.09.2016 (ie., after getting the benefit of wage settlement, 2016) and to fix the pay of the above category of employees accordingly.”

6. A reading of the reasons set out in the award also indicates that the Hon'ble Arbitrator was clearly of the view that allowing 2.57 multiplier factor to the employees who have already availed the benefit of 2.44 factor as per 2016 wage settlement would not be proper. I posed



W.P(MD)No.3609 of 2020

a specific question to the respondents if the petitioner had been granted the benefit of 2016 wage settlement. The writ petitioner in his affidavit had clearly stated that he had not been granted the benefit of the 2016 wage settlement. In the counter affidavit, it has been implicitly conceded that the petitioner was not given the benefit of the said wage settlement. This is too obvious. It does not require any concession from the respondents. Though the 2016 wage settlement was notionally made applicable with effect from 01.09.2016, the monetary benefit was given only with effect from 01.09.2017. The petitioner admittedly was promoted on 04.03.2017 itself. Therefore, he was excluded from the applicability of the monetary benefit of the 2016 wage settlement. If the 2016 wage settlement was applied to the petitioner, he could not have been given the benefit of 2.57 multiplier. In as much as the petitioner was not given such benefit, the petitioner should also be granted the very same multiplier.

7. There is yet another aspect. The petitioner invoked the provisions of the RTI Act and obtained written response from the management on 05.08.2019 that similarly placed employees who were given the benefit of the 2013 wage settlement were given the benefit of



W.P(MD)No.3609 of 2020

2.57 multiplier. A copy of the said response has been enclosed at Page No.29 of the typed set of papers. Denying the benefit sought for by the petitioner would be a clear infraction of the mandate of equality set out in Article 14 of the Constitution of India. The impugned G.O is inapplicable to the case of the petitioner. The respondents have proceeded on the erroneous premise that the petitioner got the benefit of the 2016 wage settlement. Once this factual assumption has been demonstrated to be incorrect, the G.O cannot be made applicable to the petitioner. The respondents are directed to refix his pay by adopting 2.57 multiplier/matrix by taking into account the 7th Pay Revision. Such an order shall be passed by the second respondent within a period of three weeks from the date of receipt of a copy of this order. The consequential monetary benefits shall be disbursed within a period of six weeks thereafter with 6% interest to be computed from the date of the petitioner's entitlement.

8. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.3609 of 2020

G.R.SWAMINATHAN, J.

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To

The Additional Chief Secretary to Government,
Transport Department,
Secretariat,
Chennai-600 009.

W.P(MD)No.3609 of 2020

20.06.2023

8/8