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W.P.(MD)No.1320 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1320 of 2019

A.Dharmalinga Swamy

... Petitioner

vs.

1.The Managing Director,
The Tamil Nadu State Transport
Corporation (Tirunelveli) Limited,
Kattapomman Nagar,
Tirunelveli 627 011.

2.The General Manager,
The Tamil Nadu State Transport
Corporation (Tirunelveli) Limited,
Nagercoil Region,
Tirunelveli 627 011.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2nd respondent in his



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order no. Thani / Sapapi 2 / Tha.A.Po.Ka(Thili) / 2016, dated 21.02.2017 and to quash the same and consequently, to direct the respondents to pay the difference amount of encashment of earned leave based on the revised scale of pay as per the VI pay commission report.

For Petitioner : M/s.D.Ramya
for Mr.C.Thangamani
For Respondents : Mr.K.Sathiya Singh

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned order passed by the 2nd respondent, dated 21.02.2017 and to quash the same and consequently, to direct the respondents to pay the difference amount of encashment of earned leave based on the revised scale of pay as per the VI pay commission report.

2. The petitioner was working as Manager and retired from service on 28.02.2009. The Government issued revised scale of pay and



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allowances for the Government employees with effect from 01.01.2006 by way of G.O.Ms.Nos.234 and 236, Finance (PC) Department, dated 01.06.2009. The respondent Corporation has also extended the same revision, vide G.O.Ms.No.63, Transport (D) Department, dated 05.02.2010. The said G.O., has given revision retrospectively from 01.01.2006. Therefore, the petitioner being in managerial cadre is seeking the benefits of G.O.Ms.No.63, Transport (D) Department, dated 05.02.2010.

3. The 2nd respondent has filed a counter affidavit stating that in the impugned order, it has been clearly stated that the leave salary payable to the petitioner was calculated based on the last drawn salary at the time of retirement of the petitioner. The counter affidavit also states that as per G.O.Ms.No.63, Transport (D) Department, dated 05.02.2010, the entire benefits was settled. Therefore, the 2nd respondent prays to dismiss the writ petition.



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4. Heard M/s.D.Ramya, learned Counsel appearing for the petitioner and Mr.K.Sathiya Singh, learned Counsel appearing for the respondents and perused the records.

5. In the counter affidavit, the respondents have not denied that the petitioner is not entitled to revision as per G.O.Ms.No.63, Transport (D) Department, dated 05.02.2010. The counter affidavit is not clear and the respondents have not stated whether the benefits of Earned Leave was disbursed to the petitioner based on G.O.Ms.No.63 because the said G.O., was issued after the retirement of the petitioner, i.e., the petitioner retired on 28.02.2009 whereas the G.O., was issued on 05.02.2010. Moreover, the G.O.Ms.No.63 has given retrospective effect for the revision of pay from 01.01.2006.



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6. Therefore the impugned order is quashed. From 01.01.2006 until the date of retirement, the petitioner is entitled to the revision of pay and earned leave also. Therefore, this Court is directing the respondents to calculate the revision as per G.O.Ms.No.63, Transport (D) Department, dated 05.02.2010 for the period from 01.01.2006 to 28.02.2009 and pay the difference within a period of four months from the date of receipt of a copy of this order. However, the said amount does not carry any interest.

7. With the above said observation, the writ petition is allowed. No costs.

Index : Yes / No

Internet : Yes

NCC : Yes / No

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