



W.P.(MD)No. 8824 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 8824 of 2019

N.Mani

... Petitioner

Vs.

1.The Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Represented by its Managing Director,
Kumbakonam.

2. The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Trichy Region,
Collector's Office Road, Trichy.

3. The Administrator,
Tamil Nadu State Transport
Corporation Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai – 2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, seeking to call for the records pertaining to the impugned order passed by the 2nd respondent, dated 24.01.2019



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in Ref.No.TNSTC/KUM/TRY/DS/SM1/19897/2018 and order passed by 3rd respondent in Letter No.15394-18/L2/TNSTC EPFT/RFPC/2018-2493, dated 01.11.2018 quash the same in so far as the action of the respondents in reducing the petitioners pension from Rs.9906/- to Rs.9133/- with effect from April 2012 on the ground that the necessary provident fund contribution for the revised scale of pay of Rs.7500-250-12000 was not paid to the 3rd respondent by the respondents 1 and 2 and consequently to direct the respondents 1 and 2 to pay the difference amount in provident fund contribution in the new scale of pay of Rs.7500-250-12000 to the 3rd respondent and further directing the 3rd respondent to restore his pension based on the pay revision given to him vide letter issued by the Transport Department of Government of Tamil Nadu in Letter No. 7841/C1/2010-1, dated 31.08.2010 and as per the entries made in his service record book mentioning the pay revision in accordance with the above Government Letter and by taking his basic pay at the rate of Rs.7750/-in the scale of pay of Rs.7500-250-12000/-at the time of petitioner's retirement i.e., 31.12.2008 and further directing the respondents to pay him arrears of difference in pension from the date of his retired to till date and also directing the respondents to refund the difference in pension recovered from his within a time limit that may be fixed by this Court.

For Petitioner	: Mr.A. Rahul
For R-1 & R-2	: Mr.D.Sivaraman
For R-3	: Mr.S.C.Herold Singh



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ORDER

This writ petition is filed challenging the impugned order, dated 01.11.2018 with consequential relief.

2. Heard Mr.A. Rahul, learned counsel appearing for the petitioner and Mr.D.Sivaraman, learned Standing counsel appearing for the respondent Nos.1 & 2 and Mr.S.C.Herold Singh, learned counsel appearing for R-3.

3. The petitioner was receiving pension of Rs.9,906/-, however, through the impugned order, it was reduced to Rs.9,133/-, with effect from April 2012. The petitioner was serving in the respondent Corporation and was retired from service on 31.12.2008. The petitioner was serving as Senior Superintendent in the respondent Corporation. Earlier, the Superintendents were paid revision of pay based on 12(3) Settlement, thereafter their pay structures are fixed on par with the government servants as per G.O.Ms.No.142 Transport (C1) Department, dated 21.08.2008 and the arrears shall be paid with effect from 01.01.2008. The existing scale of pay of 5900-150-8900 was ordered revised as Rs.



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6500-200-10500. Pay Commission revision happens in 10 years, however, 12(3) Industrial and Disputes Act, settlement is happening once in three years. This revision of pay in G.O.Ms.No.142 Transport (C1) Department, dated 21.08.2008, there was certain pay anomalies. Therefore, a representation was submitted before the Government. Since the Superintendents were brought from the settlement revision of pay to the pay commission scale of pay there were again certain discrepancies. After considering the claim of the Superintendents, the Government has issued a letter, dated 31.08.2010, whereby the Superintendents pre revised scale were revised as Rs.7000-11500/- and thereafter, it was revised as Rs.7500-250-12000. Since the petitioner had retired from service in the year 2008, the respondents had implemented this letter and paid pension as Rs.9906/-. Subsequently, it was brought to the knowledge of the respondents, through audit objection that the petitioner is not entitled benefits based on this letter, dated 31.08.2010, since the petitioner had retired from service in the year 31.12.2008 itself.

4. On perusing this letter, it is notionally given effect from 2008 onwards.

The relevant portion of the letter is extracted here under:



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“2. Following the representation made vide reference 5th cited the Government have decided to introduce the new scales of pay of Rs. 7000-11500 and Rs.7500-12000 in the pre-revised scales with effect from 01.01.2008 to the superintendents and Senior Superintendents of State Transport Undertakings respectively as follows:

(i). Though the Technical/Administrative Supervisory employees of State Transport Undertakings have been brought into Government pattern of scales with effect from 01.01.2008 as per the orders issued in G.O.(R1) No.142, Transport Department, dated 21.08.2008 yet, the revised pay scales (notified in G.O.Ms.No.250/Finance (BPE) Department, dated 17.06.2009) have been given effect to them from 17.06.2009.

(ii). It is clarified that the pre-revised scales of pay of Rs.7000-11500 and 7500-12000 are notionally allowed to Administrative Superintendents from 01.01.2008 to 18.06.2009 (without monetary benefit) and then the revised scale of pay of Rs.8300-34800+Grade pay of Rs.4800 and Rs.4900 respectively are allowed to them on 17.06.2009.

(iii) The monetary effect of Pay Commission has been given to this category of staff only with effect from 17.06.2009 and there will be no question of payment of arrears.



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3. A model working sheet is enclosed to this letter for guidance.

4. This letter issues with the concurrence of Finance (BPE) Department vide its U.O.No.48788/BPE/2010, dated 28.08.2010.”

Therefore, the audit objection is incorrect and the objection is against the direction of the letter stated supra. The petitioner is entitled for the revised pension of Rs.9906/-, not Rs.9133/-.

4. The said letter also clarify that the pre-revised scales of pay of Rs.7000-11500 and 7500-12000 are notionally allowed to Administrative Superintendents from 01.01.2008 to 18.06.2009. Since the petitioner was in service until 31.12.2008, the petitioner is entitled to notional fixation for the period from 01.01.2008 to 31.12.2008 and the benefits shall be given effect in the pensionary benefits. Therefore, this Court is inclined to allow this writ petition.

5. Accordingly, this Writ Petition is allowed. The impugned order, dated 01.11.2018 is hereby quashed. This petitioner is entitled for revision of pension as per letter dated 31.08.2010 for the period from 01.01.2008 to



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31.12.2008 and the benefits shall be given effect in the pensionary benefits. The 3rd respondent is directed to pay the revised pension. If any deduction is made from the petitioner's pension the same shall be repaid to the petitioner. This exercise shall be completed within a period of eight weeks from the date of receipt of a copy of the order. The said revision shall be entered in the Service Book. No costs.

Index : Yes / No
Internet : Yes
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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 8824 of 2019**

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