



W.P.(MD)No.13493 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.13493 of 2020

A.Maria Anthony Francis

... Petitioner

Vs.

1.The Management of Tamil Nadu,
State Transport Corporation (Tirunelveli) Limited,
Rep.by its Managing Director,
Tirunelveli.

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

3.The Administrator,
Tamil Nadu State Transport Corporation Pension Fund Trust,
Thiruvalluvar House, Pallavan Salai,
Chennai-600 002.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to revise the petitioner pay as per the Settlement under section 12(3) of the Industrial Disputes Act dated 04.01.2018 with retrospective effect from 01.09.2016 and consequently directing the respondents to revise and



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re-fix his retirement benefits and to disburse difference amounts in his monthly pension, gratuity, earned leave salary commutation and disburse Post Retirement Welfare Scheme amount to him with interest at the rate of 18% per annum payable from 01.09.2016 to till the date of actual payment within the time.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.H.Arumugam

ORDER

This Writ Petition has been filed for a direction to the respondents to revise the petitioner's pay as per the Settlement under Section 12(3) of the Industrial Disputes Act dated 04.01.2018 with retrospective effect from 01.09.2016, direct the respondents to revise and re-fix his retirement benefits and disburse difference amounts in his monthly pension, gratuity, earned leave salary commutation and disburse Post Retirement Welfare Scheme amount to him with interest at the rate of 18% per annum payable from 01.09.2016 till the date of actual payment within the time stipulated by this Court.



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2. The learned counsel appearing for the petitioner would submit that the petitioner joined as a Driver in the first respondent Corporation on 22.08.1988 and he retired from service on 31.12.2017. After his retirement, a settlement under Section 12(3) of the Industrial Disputes Act was entered into between the first respondent Management and Trade Union on 04.01.2018. By the said settlement, the pay of all the Transport Corporation employees was revised with retrospective effect from 01.09.2016 and the said pay revision is also applicable to the petitioner, since he retired from service on 31.12.2017. He is entitled to get the difference amount in gratuity, leave salary, commutation, monthly pension etc., however, the same has not been disbursed to him. Further, the Post Retirement Welfare Scheme amount has also not been disbursed to him. Hence, he has made a representation dated 08.07.2020 to the respondents seeking to disburse the difference in gratuity, leave salary, commutation and monthly pension and the Post Retirement Welfare Scheme etc., However, they have not taken any action. Hence, the present writ petition has been filed.



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3. The learned counsel appearing for the petitioner would submit that though the petitioner is entitled to get the difference amount in gratuity, leave salary, commutation, monthly pension and the Post Retirement Welfare Scheme, the same has not been disbursed to the petitioner. Further, for the belated payment of terminal benefits, in similar circumstances, the Hon'ble Division Bench of this Court, passed several orders fixing 6% interest. Hence, he prays for appropriate orders.

4. The learned standing counsel appearing for the first respondent would submit that due to Covid-19 pandemic, the Transport Corporation is not functioning smoothly and there was a huge loss and therefore, the same was not disbursed to the petitioner. Further, he prayed for reducing the interest from 6% to 4%.

5. Heard the learned counsel appearing for the petitioner, the learned Standing Counsel appearing for the respondents and perused the materials placed before this Court.



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6. Admittedly, the petitioner retired from service on 31.12.2017.

However, the difference in retirement benefits such as difference in gratuity, leave salary and monthly pension has not been disbursed to the petitioner. On the earlier occasion, when the Transport Corporation has not settled the retirement benefits to the employees, the Corporation borrowed amount from the State Government and settled the benefits. It is true that the Division Bench passed an order to award interest at 6% for the belated payment. However, considering the huge loss suffered by the Transport Corporation, this Court is inclined to issue a direction to the respondents to settle the difference in retirement benefits to the petitioner with interest at 4% per annum within a period of six weeks from the date of receipt of a copy of this order, if he is otherwise eligible.

7. With the above direction, this writ petition is disposed of.

No costs.

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