



W.P.(MD).No.23624 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.23624 of 2023

R.Gunasekaran

... Petitioner

Vs.

**1.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Kumbakonam,
Thanjavur District.**

**2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Trichy Region,
Periyamilaguparai,
Trichirapalli District.**

**3.The Administrator,
Tamil Nadu Transport Corporation
Employees Pension Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai-2.**

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to implement the 13th Wage settlement (Paarvai. C1/036966/2017)



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signed under Section 12(3) of the I.D. Act, dated 04.01.2018, and to re-calculate the retirement benefits of the petitioner such as difference amount of gratuity, leave salary, provident fund, commuted value of pension, revised pension for the period from 01.09.2016 to 31.10.2017 (date of retirement) pension arrears and other retirement benefits and to pay the same to the petitioner along with interest at the rate of 6% per annum.

For Petitioner : Mr.N.Sudhagar Nagaraj

For R-1 & R-2 : Mr.K.Ramaiah
Standing Counsel

For R-3 : Mr.S.C.Herold Singh
Standing Counsel

ORDER

The present writ petition has been filed seeking direction to the respondents herein to implement the 13th Wage settlement (Paarvai. C1/036966/2017) signed under Section 12(3) of the I.D. Act, dated 04.01.2018, and to re-calculate the retirement benefits of the petitioner such as difference amount of gratuity, leave salary, provident fund, commuted value of pension, revised pension for the period from 01.09.2016 to 31.10.2017 (date of retirement) pension arrears and other retirement benefits and to pay the same to the petitioner along with interest at the rate of 6% per annum.



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2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner was appointed as Driver in the respondent Corporation with effect from 09.10.1984. He retired on attaining the age of superannuation as TE Level 6 on 31.10.2017. While so, the 13th tripartite wage settlement under Section 12 (3) of the Industrial Dispute Act was entered into between the Management and Trade Unions and the settlement was signed on 04.01.2018. As per clause 1 of the terms of settlement, the Management agreed to revise the wages of the employees, those who are in service as on 01.09.2016 by revising the pay by 2.44% of the earlier wages. As the petitioner retired from service with effect from 31.10.2017, he is covered under the said 13th wage settlement and accordingly, his wages should also be revised based on the said clause of settlement, dated 04.01.2018 with effect from 01.09.2016. The respondents paid the petitioner's retirement benefits, namely gratuity, leave salary and pension based on the pre-revised wages. Though the third respondent has revised the petitioner's pension, based on the said wage revision, the respondents 1 and 2 are yet to pay the difference in wages specifically from



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01.09.2016 to 31.05.2017, difference in gratuity and difference in leave salary.

Hence, the petitioner submitted a representation on 18.10.2022 to the respondents seeking for revision of his wages based on 13th wage settlement, dated 04.01.2018. However, there was no response. Hence, this writ petition came to be filed.

4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

5. This Court hereby direct the respondents to consider the representation made by the petitioner, dated 18.10.2022 and thereafter, revise the wages of the petitioner with effect from 01.09.2016 based on the 13th wage settlement, dated 04.01.2018 and pay the arrears of wages, difference in gratuity and difference in leave salary to which he is entitled to along with interest at the rate of 6% per



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annum from the date of wage settlement (i.e.,) 04.01.2018 till the date of actual payment. The said exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order.

6. In view of the above, this Writ Petition stands disposed of. There shall be no order as to costs.

27.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

1.The Managing Director,
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Thanjavur District.

2.The General Manager,
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L.VICTORIA GOWRI, J.

BTR

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