



W.P.(MD).No.28399 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.28399 of 2023

S.Manoharan

... Petitioner

Vs.

1. The Additional Chief Secretary
to Government of Tamil Nadu,
Transport Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2. The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Madurai Division, Bye Pass Road,
Madurai – 625 016.

3. The General Manager,
Tamil Nadu State Transport Corporation Limited,
Dindigul Region,
Chettinayakkanpatti Post,
Dindigul – 624 005.

4. The Administrator,
Tamil Nadu State Transport Corporation,
Employees Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai, Chennai – 600 002.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to settle the Terminal Benefits, payable to the petitioner, such as difference in Gratuity, Leave Salary, and pension amount of Rs.8,29,210/- in terms of G.O.(Ms) No.134 Transport (D) Department, dated 09.04.2018 and G.O.(Ms) No.142 Transport (E) Department, dated 26.08.2019 with the Government clarification letter No.:file 1706:C1.2023-1, dated 25.05.2023 and all other attendant benefits to the petitioner with interest at the rate of 18% per annum from 01.10.2017 to till the date of payment.

For Petitioner : Mr.A.K.Thangavelu

For Respondents : Mr.K.Ramaiah
Standing Counsel – for R2 and R3

ORDER

The present writ petition has been filed by a Assistant Mammager, who was working in the respondent Transport Corporation and attained superannuation on 31.03.2017 seeking a mandamus as against the employer for payment of difference in Gratuity, Leave Salary, and pension amount, in terms of G.O.(Ms) No.134, Transport (D) Department, dated 09.04.2018 and G.O.(Ms) No.142, Transport (E) Department, dated 26.08.2019 and with Government Clarification letter, dated 25.05.2023.



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2. According to the writ petitioner, in view of 7th Pay Commission that was implemented with effect from 01.01.2016, his wages and other benefits enhanced, were not disbursed to him. After retired from service, he has sent a representation to the respondents herein on 30.09.2023 seeking for the disbursal of the above said eligible amount.

3. As far as G.O.(Ms) No. 142, dated 26.08.2019 is concerned, it was challenged by him. In a batch of writ petitions in W.P.No.1147 of 2020 and etc., by an order, dated 02.03.2023, this Court has passed the following the order in Paragraph No.19 :

19. Further, a Government Order cannot overrule the Rules, when the Rules says that the employees entitled to the benefits immediately after retirement, the employees worked in the respondent Transport Corporation, who have retired between 01.09.2016 and 31.12.2017, are entitled to receive revised monetary benefits from the date on which the revised monetary benefits were given to the working employees under the 13th Wage Settlement. Further, the employees who have retired between



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01.01.2016 and 31.03.2018 are entitled to receive the revised monetary benefits from the date on which the revised monetary benefits were given to the working employees as per 7th Pay Commission. Hence, to that extent, the impugned G.O., is modified. Further, with regard to dearness allowance, the retired employees are entitled to the percentage of dearness allowance as fixed by the State Government to the in-service employees. The respondents are directed to calculate the arrears of pension payable to the petitioners and settle the entire benefit, within a period of twelve weeks from the date of receipt of a copy of this order.

4. The said order was challenged by the Transport Corporation by filing a writ appeal in W.A(MD) No.1240 of 2023. The Honourable Division Bench of this Court was pleased to dismiss the writ appeal on 13.09.2023. Paragraph No.6 is extracted as follows:

6. In view of the matter, no exception can be taken for the findings and conclusions reached by the learned Single Judge and accordingly, finding no merits, the Writ Appeal is dismissed. No costs.



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Consequently, connected miscellaneous petition is closed.

5. In view of the above said facts, the respondents herein are directed to consider the representation of the writ petitioner, in the light of G.O.(Ms) No. 134, dated 09.04.2018 and G.O.(Ms) No.142, dated 26.08.2019 as modified by this Court in W.P(MD) No.1147 of 2023, dated 02.03.2023 and confirmed by this Court in W.A(MD) No.1240 of 2023, dated 13.09.2023 and disburse the eligible amount along with interest at the rate of 6% per annum from 01.09.2019 within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the above said observations, this Writ petition stands allowed.

There shall be no order as to costs.

01.12.2023

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