



W.P.No.21903 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	15/1/2024
Delivered on	27/6/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.21903 of 2015

S. Vijayaraghavan ... Petitioner

Vs

1. The Government of Tamil Nadu
rep. By its Principal Secretary to Government
Transport Department
Secretariat
Fort St. George
Chennai 600 009.

2. The Managing Director
Tamil Nadu State Transport Corporation
(VPM) Limited
137 Salamedu Village
Vazhuthareddy Post
Villupuram.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India
for the issuance of a writ of mandamus to direct the respondents to pay to
the petitioner the difference in gratuity as per G.O.Ms.No.235 Finance



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(Pay Cell) Department dated 1/6/2009 and amount due to the encashment of leave on private affairs as per Government Finance (BPE) Department Letter No.37568/BPE/2006 dated 28/1/2008 with interest of 18% p.a., on delayed payment.

For petitioner

...

Mr.K.M.Ramesh
Senior Advocate
for Ms.R.Santhya

For respondents

...

Mr.P.Gurunathan
Additional Government Pleader
for R.1

Mr.M.Aswin
for R.2

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ORDER

This writ petition is filed for issuance of a writ of mandamus directing the respondents to pay difference of gratuity as per G.O.Ms.No.235, Finance (Pay Cell) Department, dated 1/6/2009 and the amount due to the encashment of leave on private affairs as per Government Finance (BPE) Department Letter No.37568/BPE/2006 dated 28/1/2008 with interest at the rate of 18% p.a., on delayed payment.



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2. Brief facts that are necessary for the disposal of the writ petition

are as follows:-

The petitioner joined the second respondent Transport Corporation as Superintendent (Legal) on 22/5/1982. He was promoted as Assistant Manager (Legal) on 5/6/1993; Selection Grade Assistant Manager on 5/6/1999; and Deputy Manager (Legal) on 30/6/2008. After serving for 26 years and 9 months, he was retired from service on 30/6/2009. At the time of retirement, he was paid Rs.1,28,335/- towards Employees Provident Fund and Rs.3,50,000/- towards gratuity.

3. VI Pay Commission report in respect of pay revision was implemented by the Central Government Employees with effect from 1/1/2006. Consequently, the Government of Tamil Nadu has issued G.O., revising Pay Scales, basing on VI Pay Commission. It has issued G.O.Ms.No.234 dated 1/6/2009 revising the pay scales and also issued G.O.Ms.No.235 dated 1/6/2009 in respect of revising the pension. The first respondent has issued G.O.Ms.No.63, Transport (D) Department dated 5/2/2010, extending the revision of pay scales to the Officers of State Transport undertaking with effect from 1/6/2006 with monetary



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benefits from 1/1/2007 basing on G.O.Ms.No.234, Finance (Pay Cell)

Department dated 1/6/2009. Government has also issued G.O.Ms.No.280 dated 1/7/2009 extending the pension and pensionary benefits as per G.O.Ms.No.235 dated 1/6/2009 to the retired employees of the public undertaking.

4. As per G.O.Ms.No.235 dated 1/6/2009, ceiling limit of gratuity payable to the retired employees was enhanced from Rs.3.5 lakhs to Rs.10 lakhs with effect from 1/1/2006 and monetary benefits from 1/1/2007. The petitioner's pay was revised by the second respondent and his pay was fixed as on the date of retirement at Rs.12,600/- plus Grade Pay of Rs.6,300/- and D.A.Rs.12,096/-. However, the petitioner was paid gratuity only Rs.3.5 lakhs whereas according to the petitioner, he is entitled for Rs.10 lakhs. The petitioner has submitted number of representations. However, there was no response and therefore, the present writ petition is filed.

5. The Tamil Nadu State Transport Corporation, Villupuram Region, has filed a detailed counter affidavit, mentioning among other things that the maximum gratuity admissible is Rs.3.5 lakhs upto 23/5/2010 and



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subsequent to amendment of Payment of Gratuity Act, 2010, ceiling of gratuity was enhanced from Rs.3.5 lakhs to 10 lakhs and since the amendment came into effect on 24/5/2010, petitioner who retired prior to the said amendment is not entitled for enhanced gratuity.

6. Heard Mr.K.M.Ramesh, learned Senior Advocate for the petitioner, Mr.P.Gurunathan, learned Additional Government Pleader for the first respondent and Mr.M.Aswin, learned counsel for the second respondent.

7. The simple question that falls for consideration is whether the petitioner is entitled for enhanced pension as per G.O.Ms.No.234 dated 1/6/2009.

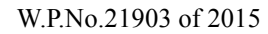
8. Admittedly, as per G.O.Ms.No.235, dated 1/6/2009, ceiling amount of gratuity was enhanced from Rs.3.5 lakhs to Rs.10 lakhs. As per the said G.O.Ms.No.234 dated 1/6/2009, salaries of the State Government employees were revised. Accordingly, petitioner's pay was also revised .



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9. It is the contention of the learned counsel for the petitioner that since G.O.Ms.No.234 dated 1/6/2009 has been implemented in his favour and that his pay was enhanced, basing on the said G.O., gratuity also required to be enhanced from Rs.3.5 lakhs to Rs.10 lakhs. This contention is not convincing. The payment of gratuity though enhanced as per G.O.Ms.No.234 dated 1/6/2009, the said enhancement is subject to the amendment of the Payment of Gratuity Act.

10. It is to be noted that payment of gratuity is being regulated as per Payment of Gratuity Act. The said Act required to be amended in order to enhance the gratuity to be paid to all the employees. Even though G.O.Ms.No.234 was passed on 1/6/2009, amendment of the Payment of Gratuity Act enhancing the gratuity from Rs.3.5 lakhs to Rs.10 lakhs came into force only on 24/5/2010. That means though G.O., enhancing the gratuity from Rs.3.5 lakhs to Rs.10 lakhs was passed on 1/6/2009 on account of the fact that amendment to the Payment of Gratuity Act, came into force on 24/3/2010 enhancing the gratuity payable from Rs.3.5 lakhs to Rs.10 lakhs, the petitioner and other employees will get the enhanced gratuity only with effect from 22/5/2010 and not earlier.



12. In view of the discussion made above, writ petition fails and the same is dismissed. No costs.

mvs.

Index: Yes/No

Neutral Citation: Yes/No

To

1. The Principal Secretary to Government
Government of Tamil Nadu
Transport Department
Secretariat
Fort St. George
Chennai 600 009.



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Dr.D.NAGARJUN,J

mvs.

Pre-delivery order made in
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27/6/2024