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W.P.No.8109 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.8109 of 2024

S.Vijayakumar

...Petitioner

-Vs-

The Managing Director
Tamilnadu State Transport Corporation
(Villupuram) Limited, Vellore Region
3/137, Salamedu, Valudha Reddy Post
Villupuram-605 602

... Respondent

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, after calling for the records relating to the order of the respondent Letter No.13040/PF3/TNSTC (VPM)/Ve.R/2021 dated .05.2021, quash the same and consequently to direct the respondent to pay the difference in leave salary and difference in gratuity amount with interest to the petitioner.

For Petitioner : Mr.S.T.Varadarajalu

For Respondent : Mr.K.Venkatesa Perumal
Standing Counsel.

ORDER

This Writ Petition has been filed challenging the order in Letter No.13040/PF3/TNSTC (VPM)/Ve.R/2021 passed by the respondent, thereby



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rejected the claim made by the petitioner seeking difference in leave salary and difference in gratuity amount with applicable interest.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner had joined the services of the respondent Corporation as a Tyreman on 25.11.1981. Subsequently, he was promoted to the post of Junior Engineer on 21.09.1994. The petitioner was given wage revision and other allowances in accordance with the wage revision settlements signed from time to time. Subsequently, the petitioner was promoted to the post of Assistant Engineer with effect from 01.01.2000. Later he was promoted to the post of Senior Assistant Engineer on 01.01.2008. Due to attainment of age of superannuation, he retired from service on 31.05.2017.

4. In the meanwhile, the respondent revised the pay as per the 7th Pay Commission recommendations with effect from 01.01.2016. Accordingly, the pay was revised as per the 7th Pay Commission in the month of September, 2019 and his pension was also revised accordingly. As per G.O.Ms.No.313, dated 25.10.2017, the Government has ordered that the maximum limit of



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Retirement Gratuity and Death Gratuity shall be enhanced from the existing Rs.10 lakh to Rs.20 lakh with effect from 01.01.2016. Further, it is ordered that the retirement gratuity for employees who have retired between 01.01.2016 and 30.09.2017 and death gratuity in respect of employees who have died between 01.01.2016 and 30.09.2017 shall also be reworked in accordance with the Government order.

5. Therefore, the petitioner claimed difference between the leave encashment based on the revised pay scale and leave encashment already sanctioned based on pre-revised scale of pay. The claim made by the petitioner was rejected. This Court, has already dealt with a similar issue in a batch of writ petitions in W.P.Nos.3697, 3699, 3703, 3705, 3706 & 4432 of 2023 and by an order dated 08.09.2023 allowed the writ petitions, by holding that :

“4. The grievance of the petitioners is that the gratuity and leave surrender salary were not paid to them as per the recommendations made under 7th Pay Commission.

5. The learned counsel for the petitioners submitted that after filing of these writ petitions, the State Government by its letter dated 25.05.2023 has, in fact, agreed and clarified that as per 7th Pay Commission and G.O.(Ms) No.134, Transport (D) Department dated 09.04.2018, the



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employees who have retired during the period from 01.01.2016 to 08.04.2018 are entitled to the revised new pay structure and on that basis gratuity (DCRG) and leave salary shall be calculated and paid to them.

6. The learned Standing Counsel appearing for the petitioner has not disputed the above factual position.

7. A perusal of the Government letter referred to above made it clear that the petitioners who have retired between 01.01.2016 and 08.04.2018 are entitled to revised pay structure and as such they are entitled to difference in gratuity and leave salary. The petitioners cannot be denied such benefits. Therefore, the orders impugned in the writ petitions denying the difference in payment of gratuity and leave salary are liable to be quashed.

In the result, the writ petitions are allowed. The impugned orders of the 2nd respondent dated 14.12.2022 are quashed. The respondents are directed to calculate the difference in payment of gratuity and leave salary as per rules and taking into consideration the clarification letter of the Additional Chief Secretary to Government of Tamil Nadu, Department of Transport, dated 25.05.2023 referred to above and settle the same together with applicable interest, if any, as per rules within a period of two months from the date of receipt of a copy of this order. No costs.”

6. In view of the above, the order in Letter No.13040/PF3/TNSTC



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(VPM)/Ve.R/2021 passed by the respondent is hereby quashed. The respondent is directed to calculate the difference in payment of gratuity and leave salary as per the rules and disburse the same within a period of twelve weeks from the date of receipt of a copy of this order.

7. In the result, this Writ Petition stands allowed. No costs.

28.03.2024
(1/2)

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
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To

The Managing Director
Tamilnadu State Transport Corporation
(Villupuram) Limited, Vellore Region
3/137, Salamedu, Valudha Reddy Post
Villupuram-605 602

G.K.ILANTHIRAIYAN. J.

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