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W.P.No.13853 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.13853 of 2021

N.Muthuswamy

... Petitioner

Vs.

1.The Principal Secretary, State of Tamilnadu,
Transport Department,
St. George's Fort,
Chennai 600 009.

2.The General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Kancheepuram Region,
Ponnerikarai, Karapet Post,
Kancheepuram 631 552.

3.The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Kancheepuram Region,
Ponnerikarai, Karapet Post,
Kancheepuram 631 552.

4.The Administrator,
Tamil Nadu State Transport Corporation Employees Pension,
Fund Trust, Pallavan Salai,
Chennai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India,
to issue a Writ of Certiorarified Mandamus, to call for the records from the



third respondent relating to the order bearing Letter No.27733/Pen.I/TNSTC-KPM/19 dated 20.05.2020 and to quash the same and consequently direct the 4th respondent to refund of the dearness allowance of the petitioner and to pay the dearness allowance withheld from September 2016 to January 2017 along with interest computed at the rate of 12% per annum from the date of actual till the date of realization.

For Petitioner : Mr.N.Desinghu

For Respondents : Mr.R.U.Dinesh Rajkumar,AGP for R1
Mrs.S.Pavithra,
Standing Counsel for R2 & R3
Mr.C.S.K.Satish for R4

ORDER

This Writ Petition has been filed for quashment of the order of the third respondent bearing Letter No.27733/Pen.I/TNSTC-KPM/19 dated 20.05.2020 and consequently to direct the 4th respondent to refund of the dearness allowance of the petitioner and to pay the dearness allowance withheld from September 2016 to January 2017 along with interest computed at the rate of 12% per annum from the date of actual disbursement till the date of realization.



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

3. The learned counsel for the petitioner submitted that the petitioner initially joined as Junior Assistant (Apprentice) on 04.03.1987 in the Tamil Nadu Goods Transport Corporation and thereafter, his service was regularized as Junior Assistant on 01.03.1989. The petitioner was promoted to the post of Superintendent in the 2nd respondent Corporation on 01.01.2013 and he retired from service on attaining the age of superannuation on 31.05.2013. The petitioner is drawing the pension from the date of retirement. For the purpose of attending the maternity of his daughter, the petitioner went and stayed at United States of America from September 2016 to January 2017 and the same was also intimated to the third respondent. But his pension was reduced from Rs.13,178/- to Rs.4,796/- for a period of five months and thereafter, the third respondent restored the normal pension on February 2017. The reduction of pension was informed by the respondents that dearness allowance was not eligible to the pensioner who stayed abroad, as per G.O.Ms.No.496, Finance (Pension) Department, dated 15.09.1998 and G.O.Ms.No.437, Transport (E) Department, dated 08.11.2017 which



discloses that the order is applicable for the Government employees and only that too in the event of the Government Pensioner undertakes an employment at abroad, but the petitioner herein has travelled only for attending his daughter's medical treatment. Hence, the petitioner has filed the present petition seeking to pay the dearness allowance withheld from September 2016 to January 2017 along with interest.

4. The learned Additional Government Pleader appearing for the first respondent submitted that the petitioner has earlier filed a Writ Petition in W.P.No.27733 of 2019 and this Court by an order dated 19.09.2019, had directed the 4th respondent to consider the representation of the petitioner dated 08.06.2018. The order of this Court was complied by the Corporation by sending Lr.No.27733/Pen.1/TNSTC-KPM/19 dated 20.05.2020 stating that the petitioner is not eligible for dearness allowance while at abroad as per the Government Order in G.O.Ms.NO.437, Transport (E) Department, dated 08.11.2017. The guidelines of the Government Order stated that as per Rule 50A(iii) of Tamilnadu Pension Rules 1978, the pensioners are not eligible to get dearness allowances for the period of stay in abroad. In that Government Order itself, it was mentioned that Tamil Nadu State Transport



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Corporation Employees Pension Fund Trust requested to accord approval to amend the existing Rule 20A of the Tamil Nadu State Transport Corporation Employees Pension Fund Rules.

5. Considering the submissions made by the learned Additional Government Pleader and on perusal of the amended Rule 20A(iii) of the TNSTC Employees Pension Fund Rules and Rule 50A(iii) of the Tamilnadu Pension Rules 1978, this Court finds that the petitioner who stayed abroad from September 2016 to January 2017, is not entitled for dearness allowance. Hence, this Writ Petition has no merits and the same is liable to be dismissed.

6. Accordingly, this Writ Petition is dismissed. No costs.

13.09.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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VIVEK KUMAR SINGH, J.

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