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W.P.No.11109 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.11109 of 2021

T.Kannapiran

... Petitioner

Vs.

1.Metropolitan Transport Corporation
(Chennai) Ltd.,
Rep by its Managing Director,
Pallavan Illam, Anna Salai,
Chennai 600 002.

2.The State Transport Corporation
Employees Pension Fund Trust,
Rep by its Administrator,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai 600 002.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to pay the petitioner a sum of Rs.69,669/- towards difference in gratuity; to pay the petitioner a sum of Rs.32,947/- towards difference in earned leave salary; to pay the petitioner a sum of Rs.6868/- towards difference in pension for the period from October 2019 to February 2021; to pay the petitioner a sum of Rs.20,188/- towards unpaid earned leave salary for the period from 21.06.2017 to 30.06.2017 and to pay the petitioner a sum of



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Rs.4360/- towards IRT Contributions with interest at the rate of 12% per annum for all the above benefits and to pay the petitioner monthly pension at the rate of Rs.26,597/- every month w.e.f March 2021.

For Petitioner : Ms.V.Porkodi

For Respondents : Mr.R.Balaji, Standing Counsel

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus, to direct the respondents to pay the petitioner a sum of Rs.69,669/- towards difference in gratuity; to pay the petitioner a sum of Rs.32,947/- towards difference in earned leave salary; to pay the petitioner a sum of Rs.6868/- towards difference in pension for the period from October 2019 to February 2021; to pay the petitioner a sum of Rs.20,188/- towards unpaid earned leave salary for the period from 21.06.2017 to 30.06.2017 and to pay the petitioner a sum of Rs.4360/- towards IRT Contributions with interest at the rate of 12% per annum for all the above benefits and to pay the petitioner monthly pension at the rate of Rs.26,597/- every month w.e.f March 2021.

2. Heard Ms.V.Porkodi, learned counsel for the petitioner and



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Mr.R.Balaji, learned Standing Counsel for the respondents.

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3. The petitioner was working as a Driver with the first respondent Corporation and retired from service on 30.06.2017 on attainment of superannuation. On 04.01.2018, 12(3) settlement of revision of wages has been signed and which was given effect from 01.09.2016.

4. The learned counsel for the petitioner submitted that though the petitioner got superannuation in the year 2017, the settlement came into effect from 01.09.2016 during which time the petitioner was in service. The petitioner has given a representation to the respondents to pay the difference amount in terminal benefits in view of 12(3) settlement dated 04.01.2018. But so far the respondents have not taken any action. Hence the petitioner has filed this Writ Petition.

5. The attention of this Court was drawn to the order dated 23.11.2023 made in W.P.Nos.30835, 30840, 30841, 30843 & 30845 of 2023, wherein, it is observed that similarly placed persons have been given with the same benefit given in the order passed in the Writ Petitions



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in W.P.(MD) Nos.5549 of 2023 batch held in S.Rajeswaran Vs. The General Manager, Tamil Nadu State Transport Corporation (Madurai) Ltd., dated 30.06.2023. In the above case, the following order has been passed:

..... “2. *The writ petitioners are retired employees of the respondent corporation. After the writ petitioners retired from service, wage settlement under Section 12(3) of the Industrial Dispute Act was entered between the unions on the one hand and the management on the other. The settlement dated 24.08.2022 came into effect on 01.09.2019. The question that arises for consideration is whether the writ petitioners can claim the benefit under the said wage settlement. The Government issued Letter No.2048/E1/2022-2, dated 17.02.2023 in the following terms:-*

“I am directed to invite your attention to the reference sixth cited and to instruct you to implement the revision of pension to the pensioners / family pensioners who have retired / voluntarily retired / expired between 01.09.2019 and 31.07.2022 from services of all the State Transport Undertakings covered under 12(3) Wage Settlement [14th Wage Settlement], subject to the following conditions:-



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(a) the revised pension shall be disbursed prospectively even though the last pay drawn of the erstwhile Transport employees who retired between 01.09.2019 and 31.07.2022 have undergone revision due to implementation of 14th Wage Settlement signed on 24.08.2022 with notional effect from 01.09.2019;

(b) dearness allowance at present rates i.e., @ 5% shall be continued without any change; and

(c) the entire financial commitment shall be incurred by the Tamil Nadu State Transport Corporation Employees' Pension Fund Trust without seeking any financial assistance from Government of Tamil Nadu.”

The learned standing counsel for the respondents contended that it is open to the management to fix the cut off date for disbursement of monetary benefits and it cannot be held to be arbitrary. In this regard, he relied on the decision reported in AIR 2008 SC 1721 (Government of Andhra Pradesh Vs. N.Subbarayudu).

3.The issue raised in these writ petitions is no longer res integra. A learned Judge of this Court vide order dated 02.03.2023 made in W.P.(MD)Nos.1147 of 2020 etc batch



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had held that a government order cannot over-ride the statutory rules and the government order cannot deny the benefits conferred on the retired employees under the wage settlement. The factual matrix obtaining in these cases is absolutely similar.

4. Respectfully following the aforesaid decision, I direct the respondents to settle the difference in gratuity, encashment of leave salary, arrears of salary and arrears of pension in terms of the wage settlement dated 24.08.2022. The amounts payable to the respective writ petitioners shall be quantified appropriately and disbursed within a period of twelve weeks from the date of receipt of a copy of this order.....”

6. Since the petitioner has also taken the same line of the submission and he is also similarly placed and entitled to the benefit of 12(3) Settlement, I feel it is appropriate to grant the relief sought by the petitioner.

7. In the result, this Writ Petition is allowed and the respondents are directed to pay the difference amount in gratuity, earned leave salary, difference amount in pension for the period from October 2019 to



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February 2021, unpaid earned leave salary for the period from 21.06.2017 to 30.06.2017 and the difference amount towards IRT Contributions, with interest at the rate of 6% per annum for all the above benefits, within a period of six weeks from the date of receipt of a copy of this order and to pay the petitioner monthly pension at the rate of Rs.26,597/- every month with effect from March 2021. No costs.

12.01.2024

Index : Yes /No
Internet : Yes/No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

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To

1.The Managing Director,
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Illam, Anna Salai,
Chennai 600 002.

2.The Administrator,
The State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam,
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