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W.P.No.20141 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM:

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

W.P.No.20141 of 2024

1. M.S.Ramprasad
2. Perarasu
3. Velmurugan
4. Govindan
5. N.Soundararajan

... Petitioners

Vs

1. Government of Tamil Nadu,
represented by its Principal Secretary,
Transport Department,
Fort St.George,
Chennai – 600 009.
2. Institute of Road Transport,
represented by its Director,
Taramani,
Chennai – 600 113.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the Respondents to pay the petitioners the balance 75 percentage arrears of salary payable to the petitioners based on the revision of pay effected to the employees of the second respondent as per the pay revision given in G.O.Ms. No. 303 dated 11.10.2017 for the period from 01.10.2017 to the date of our retirement to pay the petitioners the difference in earned leave salary for the earned leave which they



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have surrendered while they were in service between 01.01.2016 and the date of retirement with interest at the rate of 12 percentage p.a for the 25 percentage of arrears already paid to them and to pay the 4th of the petitioners the difference in earned leave salary for 240 days with interest at the rate of 12 percentage p.a within a stipulated time as may be fixed by this Hon'ble Court, award costs.

For Petitioners : Mr.V.Ajoy Khose
For R1 : Mr.Yogesh Kannadasan
Special Government Pleader
For R2 : Mr.C.Gouthamraj
Standing Counsel

ORDER

This writ petition has been filed for direction directing the Respondents to pay the petitioners the balance 75 percentage arrears of salary payable to the petitioners based on the revision of pay effected to the employees of the second respondent as per the pay revision given in G.O.Ms.No.303 dated 11.10.2017 for the period from 01.10.2017 to the date of our retirement to pay the petitioners the difference in earned leave salary for the earned leave which they have surrendered while they were in service between 01.01.2016 and the date of retirement with interest at the rate of 12 percentage p.a for the 25 percentage of arrears already paid to them and to pay the 4th of the petitioners the difference in earned leave salary for 240 days with interest at the rate of 12 percentage p.a within a stipulated time as may be fixed by this Hon'ble Court,



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award costs.

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

3. All the petitioners herein are the employees of the Institute of Road Transport/second respondent herein who had retired from their services in the year 2019 to 2023. The Government had implemented the recommendation of the VII Pay Commission to the pensioners also and accordingly, the petitioners' pensionary benefits also requires to be revised. When the second respondent herein had failed to do so, they made representations on 04.07.2024 and 09.07.2024 seeking for the revised pension as per the VII Pay Commission recommendation and in view of the non consideration of their representation, the present writ petition has been filed.

4. The learned counsel for the petitioners submitted that there is absolutely no impediment for the respondents to extend the benefits of the VII Pay Commission Recommendations to them and that since more than five years have been lapsed and the second respondent has failed to revise the pensionary



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benefits, they would be entitled for the interest on the arrears of revised pension.

5. *Per contra*, learned counsel appearing for the second respondent submitted that all the assets of the Road Transport company has been taken over by the Government and therefore, since there are financial constraint for the second respondent, it is a liability of the Government to pay arrears of the revised pension.

6. The learned Special Government Pleader appearing for the first respondent submitted that all the petitioners herein were appointed and retired from their services only under the second respondent herein and therefore, they were at no point of time in the employer/employee relationship with the Government. Thus, the Government is no way liable to pay the arrears of the revised pensionary benefits.

7. It is not in dispute that all the petitioners herein had retired from service under the second respondent. If that be so, this Court unable to comprehend as to how the liability of the petitioners' claim can fix on the



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Government, under whom the petitioners had never served.

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8. The fact that all the petitioners herein could be entitled for the monetary benefits pursuant to the recommendations of the VII Pay Commission by the Government is not in dispute. Merely because the second respondent is facing certain financial constraints, the benefits of the recommendations by the VII Pay Commission cannot be, by any stretch of imagination, be deprived to them. The fact that these liabilities have been denied for more than 5 years, hence, this Court is of the view that the petitioners are entitled to interest on the arrears of the benefits.

9. In the light of the above observations and findings, there shall be a direction to the second respondent herein to forthwith revise the pension payable to each petitioners herein as per the recommendations of the VII Pay Commission, which was implemented through G.O.Ms.No.303, Finance (Pay Cell) Department, dated 11.10.2017 for the period from 01.10.2017 to the date of their retirement; to pay the petitioners the difference in earned leave salary for the earned leave which they have surrendered while they were in service between 01.01.2016 and the date of retirement and disburse the arrears together



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with interest at the rate of 6% per annum from the date on which its due. Such orders for disbursement shall be made atleast within a period of three (3) months from the date of receipt of a copy of this order.

10. With the above directions, this Writ Petition stands allowed. No costs.

19.07.2024
(1/2)

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

1. The Principal Secretary,
Government of Tamil Nadu,
Transport Department,
Fort St.George,
Chennai – 600 009.
2. The Director,
Institute of Road Transport,
Taramani,
Chennai – 600 113.



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