IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.21305 of 2024
and W.M.P.No.23264 of 2024

Managing Director,
Tamil Nadu State Transport Corporation (VPM) Ltd.,
3/137, Salamedu, Valuthareddy Post,
Villupuram – 605 602. ... Petitioner

/vs/

1. G.Jagadeesan

2. Administrator,
Tamil Nadu State Transport
Corporation Pension Fund Trust,
Thiruvalluvar House,
Pallavan Salai,
Chennai – 2. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorari to call for the records of order passed by the Presiding Officer I Additional Labour court, Chennai in C.P.No.70 of 2022 dated 31.07.2023 and quash the same as illegal.

For Petitioner ... Ms.S.Pavithra

For Respondents ... Mr.V.S.Jagadeesan for R1
No appearance for R2

ORDER

This writ petition has been filed to call for the records of order passed by the Presiding Officer I-Additional Labour Court, Chennai in C.P.No.70 of 2022 dated 31.07.2023 and quash the same as illegal.

2. The petitioner is the State Transport Corporation who has filed this Writ Petition stating that the petitioner has retired from service on 30.04.2017 and 12(3) settlement has come into effect only from 04.01.2018. In the computation petition, the first respondent claimed that he is entitled to the salary arrears from the period between 01.09.2016 to till the date of his retirement. As per the terms of settlement dated 04.01.2018, the settlement would come into effect from 01.09.2016. So the Labour Court has chosen to compute the salary arrears of the petitioners from 01.09.2016 to till the date of his retirement.

3. Ms.S.Pavithra, the learned counsel for the petitioner, submitted that the first respondent who was not in service on 04.01.2018 when the 12(3)

settlement has came into effect, will not get the benefit of arrears of salary but his entitlement will be limited only in respect of the revision of pension in accordance with the settlement. It is further submitted that in this regard the Government has issued an order in G.O.(Rt) No.32, Transport (E) Department dated 12.09.2019 and it is clarified that the wage settlement has to be implemented in favour of those persons who have retired between 01.09.2016 and 31.12.2017 and the 7th Pay Commission can be implemented to the transport employees who have retired during 01.01.2016 to 31.03.2018.

4. It is clarified by the learned counsel for the petitioner that the said Government Order has been passed to clarify that the 13th Wage Settlement is applicable only to those persons who will come under the Wage Settlement and the 7th Pay Commission will not be applicable to the employees who do not come under the purview of 18(1) settlement.

5. But the above order did not deal with the issue as to whether the persons who would come under the folder of 18(1) settlement are entitled to get the salary arrears between the period from 01.09.2016 to 31.12.2017. In

fact the Government has given a clarification letter in Government Letter No.1706/c1/2023-1 dated 25.05.2023 wherein it is clarified that as per the 13th Wage Settlement, the persons who were retired between 01.09.2016 to 31.08.2017 are entitled to get its benefit. However it is claimed by the learned counsel for the petitioner that the clarification issued is only in respect of gratuity and leave salary and hence the first respondent is not entitled to get any salary arrears.

6. The definition of "salary" would include all emoluments which the employee is entitled to get along with the salary. When the 13(1) settlement is applicable to the leave salary, it is unfair to claim that 13(1) settlement will not be applicable to the period during which the first respondent was very much in service and he will not get the salary for the said period. In fact the clarificatory note has to be given by the Government, only because the doubts revolve around the other benefits like fixation of pension, gratuity and leave salary. Since the 13(1) settlement is very much clear about the salary element which is eligible to the employees who have been in service as on 01.09.2016, there did not arise any scope for clarification on this aspect. The first respondent was available in service from 01.09.2016 to

30.04.2017. So it is needless to state that the first respondent is very much entitled to get his salary arrears from 01.01.2016 to 30.04.2017.

7. As there is no dispute with regard to the above claim and 13(1) settlement is very much clear and abstract on this aspect, the Labour Court is not expected to frame any question as to the entitlement of the first respondent to get the salary arrears and it is sufficient for the Labour Court to compute the arrears as per the above settlement. Hence, the argument of the learned counsel for the petitioner that the first respondent is entitled to all other benefits except the salary arrears is fundamentally wrong.

8. The re-fixation of the salary which the persons who continue to be in service at the time when the settlement came into effect is very much applicable to the persons who have been in service as on the date from which the settlement would come into effect. Since the first respondent was on service on 01.09.2016 on which date the settlement has come into effect, the Labour Court has rightly computed the arrears of salary. Hence, I do not find any factual or legal infirmity inviting any inference in the impugned order.

9. In the result, this Writ Petition is dismissed. No costs. Connected miscellaneous petition is closed.

17.10.2024

Index: Yes / No
Speaking order / Non-speaking order
bkn

To:

The Presiding Officer,

I Additional Labour court,

Chennai

R.N.MANJULA ,J.

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