



W.P(MD).No.2190 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.2190 of 2024

and

W.M.P(MD)No.2206 of 2024

1.Tamil Nadu State Transport Retired Workers
and Pensioners Welfare Association,
Represented by its President
K.Maruthamuthu.

2.S.Jayachandran

....Petitioners

Vs

1.The Special Joint Commissioner of Labour,
Labour Commissioner Office,
DMS Campus, Thenampet,
Chennai-600 006.

2.The Principal Secretary,
Ministry of Tamil Nadu Transport,
Secretariat, Chennai-600 009.

3.The Financial Secretary,
Tamil Nadu Government,
Secretariat, Chennai-600 009.

4.The Managing Director,
Metropolitan Transport Corporation (MTC),
2, Pallavan Salai, Chennai-600 002.

5.The Managing Director,
State Express Transport Corporation (SETC),
Pallavan Illam, 2 Pallavan Salai,
Chennai-600 002.



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- 6.The Managing Director,
Tamil Nadu State Transport Corporation (TNSTC),
Post Box No.56, No.3/137,
Saalvaluthareddi Post,
Villupuram-605 602.
- 7.The Managing Director,
Tamil Nadu State Transport Corporation (TNSTC),
Kumbakonam Ltd.,
No.7, Railway Station New Road,
Kumbakonam-612 001.
- 8.The Managing Director,
Tamil Nadu State Transport Corporation (TNSTC)
Madurai Ltd.,
Byepass Road,
Madurai-625 010.
- 9.The Managing Director,
Tamil Nadu State Transport Corporation (TNSTC)
Salem Ltd.,
No.12, Ramakrishna Salai,
Salem-636 007.
- 10.The Managing Director,
Tamil Nadu State Transport Corporation (TNSTC)
Kovai Ltd.,
No.37, Mettupalayam Road,
Kovai-641 043.
- 11.The Managing Director,
Tamil Nadu State Transport Corporation (TNSTC)
Tirunelveli Ltd.,
Vannarapettai,
Tirunelveli-627 003.
- 12.The Administrator,
TNSTC Retired Employee's Pension Trust,
Thiruvalluvar Illam, Pallavan Salai,
Chennai-2.

...Respondents



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Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider their representations dated 19.08.2023, to redress their grievances relating to pension revision, payment of arrears of pension and payment of dearness allowance, medical allowances etc., as agreed by the respondents and to permit their association representatives for the forthcoming wage settlement negotiations, within the stipulated time that this Court deem fit and reasonable and to grant such other suitable relief that this Court may deem fit and proper in the circumstances of the case.

For Petitioner	: Mr.T.Banumathy
For R1-R3	:Mr.C.Baskaran Government Advocate
For R4 & R5	:Mr.Senthil Kukar Standing Counsel
For R6 & R7	:Mr.K.Jegadeesh Balan Standing Counsel
For R8	:Mr.S.Raja Standing Counsel

ORDER

The present writ petition has been filed seeking direction to the respondents to consider their representations dated 19.08.2023, to redress their grievances relating to pension revision, payment of arrears of pension and payment of dearness allowance, medical allowances etc., as agreed by the



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respondents and to permit their association representatives for the forthcoming wage settlement negotiations, within the stipulated time that this Court deem fit and reasonable and to grant such other suitable relief that this Court may deem fit and proper in the circumstances of the case.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioners are the pensioners of Tamil Nadu State Transport Corporation. The Pension Scheme of 1995 was implemented to the TNSSTC employees and the same was accepted in the 1998 agreement effected between the management and the employees. After a prolonged battle for wage agreement, a settlement was reached between various Associations and Unions representing the serving employees of Transport Corporation of Tamil Nadu and the Transport Corporation Management. An agreement was reached and settlement was signed on 22.01.2011 between the employees unions and the Government officers and the management of the corporations in the presence of Joint Labour Commissioner (Conciliation). The settlement is called as 2010 Settlement.



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4. In the agreement of 2010, it has been categorically accepted by the management that an enhancement of 9% in the basic pension from the year of 2005, 12% hike from the year 2007 would be granted to the petitioners and from the year 2010, the pension hike would be granted to the petitioners at the percentage rate which was accepted to the serving employees. It is equivalent to 21% of the basic pension and order has been passed by the Trust Board, that is the 12th respondent herein, agreeing for the same.

5. The terms of the agreement that pertains to the serving employees were given effect and all the serving employees are benefited from the wage hike and they also received the arrears of wages from the year of 2005 onwards, as per the terms of agreement. But the operative part of the agreement that relates to pension of the retired employees was not at all given effect and the pensioners have not received enhanced pension from the year 2005 onwards. Therefore, the petitioners have been receiving only the basic pension with dearness relief. The refixation of basic pension was not at all given effect duly enhancing the basic pension at the rate of 9% from 2005, 12% from 2007 and at the rate as granted to the serving employees from 2010. The said wage settlement was reached under Section 12 (3) of Industrial Disputes Act and amicably accepted and signed on 22.01.2011 by all the parties to the agreement and subsequently the terms of the agreement



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has been implemented only to the serving employees. The terms of the agreement that related to the pensioners are still kept on the papers only and none of the terms has so far been implemented by the respondents.

6. The petitioners' Association repeatedly sent representations to the Chief Minister of Tamil Nadu to the Minister for Transport Department and to the respondents. The petitioners Association received a reply that regarding the re-fixation of pension enhancing the basic pension from the year 2005, 2007 and 2010 respectively, the TNSSTC employees pension Fund Trust has sent letter to the Government to get permission for implementing the above enhancement for the pensioners and after getting permission from the Government, orders will be issued by the Trust and then only the demands of the pensioners could be considered.

7. The respondents are time and again stating to the petitioners that the monetary benefits that accrue to the pensioners would be granted after getting approval from the Government. But the respondents have not taken a concrete decision to grant the petitioners with the benefits at the earliest, as granted and implemented to the serving employees of TNSSTC. Similarly, the medical benefits to the retirees and their families were also not considered by the Government. The petitioners are incurring heavy loss every month due to



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the non-implementation of the above stated terms of agreement. While so, the petitioners approached this Court by filing W.P(MD)No.15076 of 2012 to issue an order to the respondents to re-fix the basic pension as per the terms of the above agreement and pay them arrears of pension within a reasonable time limit. This Court considered the petitioners' issue and passed orders directing the respondents to consider the representation of the petitioner Association within two weeks from the date of receipt of the copy of the order and take a decision and pass orders on merits and accordance with law. However, the said order was not complied within the time stipulated. Therefore, the petitioners filed Cont.P(MD)No.144 of 2015 in the above W.P(MD)No.15076 of 2012. Instead of granting enhanced pension at the rate of 9% from 2005, 12% from 2007 and at the percentage rate as granted to the serving employees from 2010, the respondents issued an order granting revision of pension at 15% on the pension drawn as on 01.09.2010 and the revision was given effect only from 01.04.2015. On the basis of the facts discussed supra, this Court closed the contempt petition.

8. The grievance of the petitioner is that the respondents granted only 15% on the pension of 2010 and thereafter, no relief towards enhancement of pension has been granted by the respondents. The said 15% enhancement was granted only from the date of order and not from the date of agreement. There



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was another settlement in the year 2013 and it was also not implemented as far as pensioners are concerned.

9. Only in the case of retired workers and employees, the respondents have denied the revision of pension from 2005 onwards. Hence, the act and attitude of the respondents are contrary to the provisions enshrined in Article 14 of the Constitution of India. Hence, the petitioners sent a written representation, dated 19.08.2023 and the respondents received the same. However, the same was not considered. Hence, this writ petition came to be passed.

10. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.



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11. Without going into the merits of the case, this Court hereby directs the respondents to consider the representation of the petitioners, dated 19.08.2023 and pass appropriate orders in accordance with law within a period of twelve (12) weeks from the date of receipt of copy of this order.

12. With the above said observations, this Writ Petition stands disposed of. No costs.

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Internet : Yes
Index : Yes/No
NCC : Yes/No

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To

1.The Special Joint Commissioner of Labour,
Labour Commissioner Office,
DMS Campus, Thenampet,
Chennai-600 006.

2.The Principal Secretary,
Ministry of Tamil Nadu Transport,
Secretariat, Chennai-600 009.

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L.VICTORIA GOWRI, J.

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