



W.A.(MD) No.381 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.03.2024

CORAM:

THE HONOURABLE **MR.JUSTICE D.KRISHNAKUMAR**

AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.381 of 2024

and

C.M.P.(MD)No.3395 of 2024

1.State Express Transport Corporation (TN) Ltd.,
Rep. by its Managing Director,
Thriuvalluvar Illam, Pallavan Salai,
Chennai-600 002.

2.The General Manager,
State Express Transport Corporation (TN) Ltd.,
Thiruvalluvar Illam, Pallavan Salai,
Chennai-600 002.

3.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam, Pallavan Salai,
Chennai-600 002.

... Appellants

-Vs-

1.A.Balasubramanian

2.The Additional Chief Secretary and
Secretary to Government,
Transport Department, Fort St.George,
Secretariat, Chennai-600 009.

... Respondents



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PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 02.02.2023 passed in W.P.(MD)No.15178 of 2020 on the file of this Court.

For Appellants : Mr.S.C.Herold Singh

For R1 : Mr.A.K.Thangavelu

JUDGMENT

[Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*]

This Writ Appeal is directed against the order of the Writ Court dated 02.02.2023 passed in W.P.(MD)No.15178 of 2020.

2.The 1st respondent / writ petitioner filed the Writ Petition, challenging the denial of sanctioning the notional increment and seeking for a direction to the appellants herein to sanction notional increment that falls on 01.07.2018 based on G.O.(Ms)No.140, Finance (Pay Cell) Department, dated 25.04.2018 and to pay the difference in terminal benefits such as Gratuity, Commutation, Unavailed Leave Salary and also to revise his pension with arrears together with interest at 18% per annum from the date of his retirement ie., 30.06.2018 till the date of payment and all other attendant benefits to the petitioner.



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3.The Writ Court, by applying Clause 10 of Grant of Increments in the Common Service Rules and G.O.(Ms)No.140, Finance (Pay Cell) Department, dated 25.04.2018 and the order in W.P.No.15107 of 2016, directed the appellants to sanction notional increment to the writ petitioner within a period of four weeks from the date of receipt of the order.

4.Aggrieved by the same, the appellants filed this Writ Appeal on the ground that the writ petitioner retired from service on 30.06.2018, however, one full year falls on 01.07.2018 and therefore, for shortage of one day, sanctioning of notional benefits was denied.

5.The learned counsel appearing for the 1st respondent / writ petitioner submitted that the issue involved in this matter is covered by a decision of the Hon'ble Supreme Court in the case of ***Director (Admin.and HR) KPTCL and others Vs. C.P.Mundinamani and others***) reported in ***2021 SCC Online SC 401***.

The relevant portion of the said decision is extracted hereunder:-

“20.Similar view has also been expressed by different High Courts, namely, the Gujarat High Court, the Madhya Pradesh High Court, the Orissa High Court and the Madras High Court. As



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observed hereinabove, to interpret Regulation 40(1) of the Regulations in the manner in which the appellants have understood and/or interpreted would lead to arbitrariness and denying a government servant the benefit of annual increment which he has already earned while rendering specified period of service with good conduct and efficiently in the last preceding year. It would be punishing a person for no fault of him. As observed hereinabove, the increment can be withheld only by way of punishment or he has not performed the duty efficiently. Any interpretation which would lead to arbitrariness and/or unreasonableness should be avoided. If the interpretation as suggested on behalf of the appellants and the view taken by the Full Bench of the Andhra Pradesh High Court is accepted, in that case it would tantamount to denying a government servant the annual increment which he has earned for the services he has rendered over a year subject to his good behaviour. The entitlement to receive increment therefore crystallises when the government servant completes requisite length of service with good conduct and becomes payable on the succeeding day. In the present case the word “accrue” should be understood liberally and would mean payable on the succeeding day. Any contrary view would lead to arbitrariness and unreasonableness and denying a government servant legitimate one annual increment though he is entitled to for rendering the services over a year with good behaviour and efficiently and therefore, such a narrow interpretation should be avoided. We are in complete agreement with the view taken by the Madras High Court in the case of P. Ayyamperumal (supra); the



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Delhi High Court in the case of Gopal Singh (supra); the Allahabad High Court in the case of Nand Vijay Singh (supra); the Madhya Pradesh High Court in the case of Yogendra Singh Bhadauria (supra); the Orissa High Court in the case of AFR Arun Kumar Biswal (supra); and the Gujarat High Court in the case of Takhsingh Udesingh Songara (supra). We do not approve the contrary view taken by the Full Bench of the Andhra Pradesh High Court in the case of Principal Accountant-General, Andhra Pradesh (supra) and the decisions of the Kerala High Court in the case of Union of India Vs. Pavithran (O.P.(CAT) No. 111/2020 decided on 22.11.2022) and the Himachal Pradesh High Court in the case of Hari Prakash Vs. State of Himachal Pradesh & Ors. (CWP No. 2503/2016 decided on 06.11.2020). 21. In view of the above and for the reasons stated above, the Division Bench of the High Court has rightly directed the appellants to grant one annual increment which the original writ petitioners earned on the last day of their service for rendering their services preceding one year from the date of retirement with good behaviour and efficiently. We are in complete agreement with the view taken by the Division Bench of the High Court. Under the circumstances, the present appeal deserves to be dismissed and is accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs."

6. In the light of the aforesaid decision of the Hon'ble Supreme Court, we are of the view that the Writ Court has rightly allowed the Writ Petition and there



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is no error to interfere with the order of the learned Single Judge. Therefore, this

Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
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NCC : Yes / No
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