



W.P.(MD)No.17153 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.17153 of 2021

&

W.M.P(MD)No.14048 of 2021

N.Nagendran

... Petitioner

Vs.

1.The Additional Chief Secretary &
Secretary to Government
Transport Department
For St.George, Secretariat
Chennai-600 009

2.Tamil Nadu State Transport Corporation Ltd
Rep by its Managing Director
Madurai Division
Bye pass road
Madurai-625 016

3.The Financial Advisor and
Chief Accounts Officer
Tamil Nadu State Transport Corporation Ltd
Madurai Division
Bye pass road
Madurai-625 016



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4. The Administrator
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust
Thiruvalluvar illam
Pallavan Salai
Chennai-600 002

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus to call for the records pertaining to the impugned order passed by the 2nd respondent, vide ref.No.Vai.Nithi.1/752 dated 09.07.2021, quash the same as illegal and in consequence, directing the respondents to pay the difference in unavailed leave salary Rs.1,62,120/- together with 6% interest and also 6% interest for the belated payment of difference in Commutation amount in total Rs. 4,33,635/- along with the present rate of 17% Dearness Allowance, payable to the petitioner as per the direction issued by this Court in W.P.(MD).No.214 of 2019 (common order in W.P.(MD) No.104 to 106, 139,165,213 to 215 and 225 of 2019) dated 04.01.2019, along with in terms 3 (C) of G.O.Ms.No.142 Transport (E) Department dated 26.08.2019, within the stipulated time.

For Petitioner : Mr.A.K.Thangavelu

For Respondent : Mr.D.Sasikumar, AGP for R1

Mr.J.Senthilkumar for R2 to 4



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ORDER

The petitioner herein who worked as Special Officer in the respondent corporation retired from service after attaining the age of superannuation on 31.05.2016 has filed this Writ Petition seeking a Writ of Mandamus to call for the records pertaining to the impugned order passed by the 2nd respondent vide ref.No.Vai.Nithi.1/752 dated 09.07.2021 and to quash the same and also sought for a consequential direction to the respondents to pay the difference in unavailed leave salary Rs.1,62,120/- together with 6% interest and also 6% interest for the belated payment of difference in Commutation amount in total Rs.4,33,635/- along with the present rate of 17% Dearness Allowance, payable to the petitioner.

2. According to the Writ Petitioner in view of the 7th pay commission that was implemented with effect from 01.01.2016 his wages and other benefits were enhanced and he was also paid the differential amount of commutation pension though belatedly. When the G.O.Ms.No.142 Transport (E) Department dated 26.08.2019 was issued, the same was challenged by the petitioner herein before this Court in a batch of Writ Petitions in W.P.



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(MD)Nos. 1147 of 2020 and batch and this Court by order dated 02.03.2023

has passed the following order in para 19:

19. Further, a Government Order cannot overrule the Rules, when the Rules says that the employees entitled to the benefits immediately after retirement, the employees worked in the respondent Transport Corporation, who have retired between 01.09.2016 and 31.12.2017, are entitled to receive revised monetary benefits from the date on which the revised monetary benefits were given to the working employees under the 13th Wage Settlement. Further, the employees who have retired between 01.01.2016 and 31.03.2018 are entitled to receive the revised monetary benefits from the date on which the revised monetary benefits were given to the working employees as per 7th Pay Commission. Hence, to that extent, the impugned G.O., is modified. Further, with regard to dearness allowance, the retired employees are entitled to the percentage of dearness allowances as fixed by the State Government to the in-service employees. The respondents are directed to calculate the arrears of pension payable to the petitioners and settle the entire benefit, within a period of twelve weeks from the date of receipt of a copy of this order.



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3. The said order of the learned Single Judge was challenged by the Corporation in W.A.(MD)No.1240 of 2023 and the learned *Division Bench* of this Court was pleased to dismiss the said Appeal by order dated 13.09.2023 holding as under:

6. In that view of the matter, no exception can be taken for the findings and conclusions reached by the learned Single Judge and accordingly, finding no merits, the Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

4. The grievance of the petitioner still remain unaddressed is that consequent upon the revision of pay scales on implementation of 7th pay commission, the petitioner is entitled for the differential amount of the earned leave salary and also for the dearness allowance in terms of the order passed by the learned Single Judge in WP(MD).No.1147 of 2020 and batch dated 02.03.2023. The other grievance of the petitioner is that the differential amount of commutation pension was paid belatedly to the petitioner and that too only after approaching this court, and hence the petitioner is entitled for



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interest on the belated payment of commutation pension. Though the respondents paid the differential amount of commutation pension on 09.07.2021 and as the respondents have not paid the interest on the belated payment of the said amount and the differential amount of earned leave salary encashment, the petitioner has approached this court.

5. In view of the fact that through the impugned proceedings dated 09.07.2021 differential amount of computation pension was paid to the petitioner, there is no necessity to quash the said proceedings. However, the claim of the petitioner for differential amount of encashment of earned leave salary and claim for interest on the belated payment of differential amount of commutation pension etc are concerned, it is for the petitioner to make an appropriate claim before the respondents and the respondents are bound to consider the same in the light of the orders passed by this Court referred to herein above. In the light of the above, this Court is of the view that it would be appropriate to permit the petitioner to make a fresh appropriate representation before the respondents.



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6. Accordingly, the Writ Petition is disposed of permitting the petitioner to make a detailed representation and on submission of such representation the respondents herein are directed to consider the representation of the petitioner, in the light of G.O.(Ms)No.134, dated 09.04.2018 and G.O.(Ms)No.142 dated 26.08.2019 as modified by this Court in W.P.(MD)No.1147 of 2023 dated 02.03.2023 and confirmed by this Court in W.A.(MD)1240 of 2023 dated 13.09.2023 and disburse the eligible amount along with interest at the rate of 6% per annum with effect from 01.09.2019 within a period of twelve weeks from the date of receipt of a copy of this order.

Consequently, connected Writ Miscellaneous Petition is closed.

There shall be no order as to costs.

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NCC : Yes/No
Index : Yes/No
Internet : Yes
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Secretary to Government
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For St.George, Secretariat
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MUMMINENI SUDHEER KUMAR, J.

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