BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2024

CORAM

THE HON'BLE MR.JUSTICE **R.SURESH KUMAR**
AND
THE HON'BLE MR.JUSTICE **G.ARUL MURUGAN**

W.A(MD)No.1099 of 2024
and
C.M.P.(MD)No.8281 of 2024

1.The Managing Director,
TNSTC (Madurai) Limited,
Bye Pass Road, Madurai – 625 016.

2.The Administrator,
TNSTC Employees pension Fund Trust,
office of the SETC HO,
Thiruvalluvar House,
Pallavan Salai, Chennai – 600 002. ... Appellants

vs

1.S.Sampath

2.The Additional Chief Secretary to Government,
Transport Department,
Secretariat, Chennai – 600 009. ...Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order of this Court dated 20.06.2023 passed in W.P(MD)No.3609 of 2020.

For Appellants	: Mr.S.C.Herold Singh
For R1	: Mr.R.Karunanidhi
For R2	: Mr.N.Sathish Kumar Additional Government Pleader

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JUDGMENT

(Judgment of this Court was delivered by **G.ARUL MURUGAN, J.**)

The intra Court appeal is directed against the order, dated 20.06.2023 in W.P.(MD)No.3609 of 2020 by the Transport Corporation/second and third respondents in the Writ Petition.

2.The issue in the Writ Appeal is in respect of whether the pay of the Writ Petitioner is to be fixed by adopting 2.44 multiplier factor or 2.57 multiplier factor.

3.The short facts to be noted for disposal of the Writ Appeal is that the first respondent/Writ Petitioner had joined in the erstwhile Pandian Roadways Corporation Limited, later bifurcated and named as Tamil Nadu State Transport Corporation, as Clerk on 16.06.1980. He was promoted from the post of Senior Assistant to the post of Superintendent with effect from 04.03.2017. The Writ Petitioner had got superannuated and his pay was fixed by adopting 2.44 multiplier by taking into account the operation of G.O.(Ms)No.330, Transport (C1) Department, dated 31.10.2018.

4.The Writ Petitioner had challenged the said Government Order with a consequential prayer to re-fix his pay by adopting 2.57 multiplier/matrix on par with his 7th pay revision from the date of his promotion. It was also the grievance of the Writ Petitioner that the similarly placed employees were granted the pay by adopting 2.57 multiplier and in so far as calculating his pay, only a multiplier of 2.44 was adopted. The appellant Corporation had denied the claim on the ground that a workman can only be covered under two pattern, ie., as per 12(3) settlement of the Industrial Disputes Act, if he is a workman, or as per the Government pattern, if he is in a supervisory or managerial cadre. Since the first respondent/Writ Petitioner belonged to the supervisory cadre, a multiplier of 2.44 was adopted as per G.O(Ms)No.220, dated 23.07.2018. The Writ Court, however, came to the conclusion that the Transport Corporation ought to have adopted and fixed the pay by adopting 2.57 multiplier, as he has not been provided the benefits under the 2015 wage settlement and aggrieved by the same, the appellant Corporation had preferred the above appeal.

5.The learned Counsel appearing for the appellant Corporation contended that as the issue arose regarding fixation of pay in respect of employee, who have migrated from the workman category to the supervisory category, only based on the One Man Commission recommendation 2.44 multiplier was adopted and pursuant to the representation of the Associations, an Arbitrator was appointed and only pursuant to the award passed, 2.44 multiplier factor, as per G.O.(Ms)No. 220, dated 23.07.2018, was adopted to the employes in the supervisory cadre like the Writ Petitioner. The learned Counsel further contended that when 2016 wage settlement was made applicable with effect from 01.09.2016, which covers the employees in the supervisory cadre, the Writ Petitioner can only be covered in the pay fixation by allowing 2.44 multiplier factor. However, the learned Judge had erroneously adopted a different yardstick and had directed the appellant Corporation to fix pay scale by adopting 2.57 multiplier/matrix, which is against the implementation of 2016 wage settlement and G.O.(Ms)No.220, dated

23.07.2018 and sought for the interference against the order passed in the Writ Petition.

6.Heard the learned Counsels on either side and perused the materials available on record.

7.The fixation of pay in respect of the employees, who are working in the appellant Transport Corporation, is fixed under two categories, if employee is workman, he is covered under 12(3) settlement of the Industrial Disputs Act or if the employee is in a supervisory or managerial cadre, he is getting pay as per the Government pattern.

8.After the Tamil Nadu Revision of Pay Rules -2017 came into force, based on the request made by the employees, who had migrated from the workman category to the supervisory category, an One Man Commission was constituted and pursuant to the recommendation of the Committee, the pay fixation by adopting 2.44 multiplier was adopted in respect of those employees, who have been promoted to supervisory or managerial cadre. Subsequently, in view of the representation made by the Union for adopting the multiplier factor of 2.57, an Arbitrator was appointed and pursuant to the award, dated 26.03.2018, the Government issued G.O.(Ms)No.330, Transport (C1) Department, dated 31.10.2018, directing the State Transport Department to continue the existing benefit allowed in G.O(Ms)No.220, Transport (C1) Department, dated 23.07.2018, by applying 2.44 multiplier factor to the technical/administrative supervisory cadre employees, who have been promoted and migrated to Government scale of pay between 11.01.2016 and 31.08.2016 as well as after 01.09.2016 (ie., after getting the benefit of wage settlement-2016) and fix the pay of the above category of employees. Therefore, in view of the above Government Order, an employee, who has migrated from workman category to the supervisory category, between the period of 01.01.2016 to 31.08.2016 and also the employees, who have been migrated after 01.09.2016, who have received the 2016 wage settlement, will be covered by fixing pay scale by adopting 2.44 multiplier factor.

9.In the instant case, the Writ Petitioner/first respondent, who was originally appointed as Clerk on 16.06.1980, was promoted from the post of Senior Assistant to the post of Superintendent on 04.03.2017. The vehement contention of the learned Counsel for the appellants that since 2016 wage settlement was made applicable with effect from 01.09.2016 and the first respondent was promoted on 04.03.2017 itself, he is covered under G.O(Ms)No.330, dated 31.10.2018 and therefore, the pay can be fixed only by adopting 2.44 multiplier, is liable to be rejected for the simple reason that even though the 2016 wage settlement was made applicable with effect from 01.09.2016, the monetary benefits of the 2016-wage settlement was given effect to only from 01.09.2017. By the date on which, 2016-wage settlement was effected, ie., on 01.09.2017, the first respondent/Writ Petitioner had already been promoted on 04.03.2017 itself. In other words, only after the first respondent/Writ Petitioner got promotion on 04.03.2017, the 2016-wage settlement was given effect monetarily from 01.09.2017. Since on the date of giving effect of the 2016-wage settlement, the Writ Petitioner had got promotion, he was not given the benefits of the 2016-wage settlement.

10.When G.O.(Ms)No.330, dated 31.10.2018, makes it clear that only the employees, who have been migrated cadre to Government scale of pay, even after 01.06.2016, who get the benefit of 2016 wage settlement, those pay shall be fixed by adopting 2.44 multiplier. Here, admittedly, when the first respondent/Writ Petitioner was not given the benefits of 2016-wage settlement and he had been promoted to the supervisory cadre on 04.03.2017 itself, the first respondent is entitled for re-fixation of his pay by adopting 2.57 multiplier/matrix by also taking into account the 7th pay revision.

11.By taking note of all the above factual matrix, the learned Judge had arrived at a right conclusion that the first respondent, who had not been provided with the benefits of 2016-wage settlement, will be entitled for pay fixation by adopting 2.57 multiplier, which is perfectly legal and does not warrant any interference by this Court. In such circumstances, the order of the Writ Court is liable to be sustained and accordingly, sustained. The appellant Corporation shall comply with the direction issued by the learned Judge within a period of four weeks from the date of receipt of a copy of this order.

12.With these directions, the Writ Appeal is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J] & [G.A.M., J]
04.07.2024

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

The Additional Chief Secretary to Government,
Transport Department,
Secretariat, Chennai – 600 009.

R.SURESH KUMAR, J.

AND

G.ARUL MURUGAN, J.

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Judgment made in
W.A(MD)No.1099 of 2024

04.07.2024