



W.P(MD)No.26540 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P(MD)No.26540 of 2022

P.Sundararajan

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Madurai Division,
Bye Pass Road,
Madurai.

2.The General Manager,
Tamil Nadu State Transport Corporation
Madurai Limited,
Dindigul Region,
Dindigul District.

3.The Administrator,
Tamil Nadu State Transport Corporation
Madurai Limited,
Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai.

... Respondents



W.P(MD)No.26540 of 2022

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to revise the petitioner's pay as per the settlement under Section 12(3) of Industrial Dispute Act, dated 13.04.2015 and further directing the respondents to pay difference amount in the petitioner's salary for the period from 01.09.2013 till his retirement (i.e.,) 31.07.2014 along with pay difference in his Retirement Benefits together with interest at the rate of 12% by considering the petitioner's representation, dated 19.10.2022 and for other reliefs and to pass such other orders as this Court.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.S.C.Herold Singh
Standing Counsel

ORDER

This writ petition has been filed seeking for a Mandamus to the respondents to revise the petitioner's pay as per the settlement under Section 12(3) of Industrial Dispute Act, dated 13.04.2015 and further directing the respondents to pay difference amount in the petitioner's salary for the period from 01.09.2013 till his retirement (i.e.,) 31.07.2014 along with pay difference in his Retirement Benefits together with interest at the rate of 12% by considering the petitioner's representation, dated 19.10.2022.



W.P(MD)No.26540 of 2014

2. The case of the petitioner is that the petitioner was initially selected as a Trainee Conductor in the respondent Corporation. On 31.07.2014, the petitioner was allowed to retire from his service from the respondent Corporation on attaining the age of his superannuation. The respondent Corporation had given a gratuity amount and also paid other terminal benefits. The petitioner had also obtained his commuted value of pension under the Tamil Nadu State Transport Corporation Employees' Pension Fund Rules.

3. All the employees under the respondent Corporation are governed by the periodical settlements between the Management and the Trade Unions of the employees under Section 12(3) of the Industrial Disputes Act, 1947. The pay fixation and payment of all other benefits shall be decided only on the basis of the periodic settlements. Further the said settlement is arrived once in every three years period.

4. Even though the settlement had to be arrived at during 2013 in spite of several meetings between the Management and representatives of the Trade Union, there was inordinate delay in arriving at the settlement and finally the settlement was reached on 13.04.2015 and thereby, the pay fixation of the



W.P(MD)No.26540 of 2022

employees of the respondent Corporation has been revised with effect from 01.09.2013. The petitioner retired from service on 31.07.2014. As per the above settlement, dated 13.04.2015, the petitioner is entitled to a revision of pay, difference in various allowances, gratuity, pension, leave salary etc. However, the respondents did not pay the same and did not revise his salary based on the above settlement.

5. After retirement, the petitioner has been frequently visiting the offices of the respondents 1 and 2 and requesting to settle his difference in pay and other benefits payable to the petitioner on the basis of the above settlement with effect from 01.09.2013. Even though the officials promised to do the needful, they failed to consider the petitioner's request. Failure to implement a settlement is an "unfair labour practice" as defined under Section 2(a) r/w Clause 13 of the V Schedule of the Industrial Disputes Act, 1947. However, in this case, the above said settlement benefits have not been extended to the petitioner. In this regard, the petitioner has sent a detailed representation on 19.10.2022. But no action was taken by the respondents. Hence, the present writ petition.



W.P(MD)No.26540 of 2022

6. The learned Counsel appearing for the petitioner submitted that he has given a representation, dated 19.10.2022 to all the respondents but the competent authority to consider the representation is the first respondent. The learned Counsel appearing for the petitioner submitted that it would suffice if the representation, dated 19.10.2022 is considered by the first respondent.

7. The learned Counsel appearing for the petitioner submitted on written instructions from the Assistant Manager, Dindigul Region, Tamil Nadu State Transport Corporation vide proceedings in திண்டு.தொ.தா.பி/WP/26539-26541/2022, dated 21.10.2024, wherein it is stated that the gratuity and the difference in salary were paid to the petitioner and the details of the amount paid and the mode of the payment and the date of payment is also mentioned in the written instructions. The above written instructions are extracted hereunder:

Sl. No.	W.P.No./ Year	Name of the petitioner	Designation	Staff No.	D.O.E
01.	26539/22	V.Palanikumar	Conductor	60766	31.03.2014
02.	26540/22	P.Sundararajan	Conductor	61276	31.07.2014
03.	26541/22	S.Manian	Conductor	60574	30.06.2014

மேற்படி மனுதாரர்களுக்கு 13.04.2015ந் தேதியன்று ஏற்பட்ட 12வது ஊதிய உயர்வு ஒப்பந்தப்படி கீழ்க்கண்ட



W.P(MD)No.26540 of 2022

தகுதியுள்ள பண்பலன்கள் ஏற்கனவே வழங்கப்பட்டுள்ளது.

WEB COPY அதன் விபரம் பின்வருமாறு:

Sl. No.	Name of the petitioner	Difference of Gratuity (Rs.)	Payment made	Arrears of salary (Rs.)	Payment made (Amount paid thro' ECS - in 4 EMIs)
01.	V.Palanikumar	40,431/-	ECS on 09.01.2019	17,382/-	Last EMI paid on 28.08.2016
02.	P.Sundararajan	25,470/-	ECS on 09.01.2019	16,254/-	Last EMI paid on 28.08.2016
03.	S.Manian	34,131/-	ECS on 09.01.2019	10,905/-	Last EMI paid on 28.08.2016

8. Without going into the merits of the case, the first respondent is directed to consider the representation of the petitioner, dated 19.10.2022 on merits, in accordance with law and taking into consideration, the settlement under Section 12(3) of the Industrial Disputes Act, dated 13.04.2015, pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order. The first respondent while taking into consideration the representation may pass orders in regard to payment of arrears of salary or the gratuity after deducting the amount which has been already paid to the petitioner herein, if any.



W.P(MD)No.26540 of 2022

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9. The writ petition stands disposed of with the above observations and directions. There shall be no order as to costs.

25.10.2024

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

To

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W.P(MD)No.26540 of 2022

J.SATHYA NARAYANA PRASAD, J.

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W.P(MD)No.26540 of 2022

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