IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.461 of 2024

P.Rajendran ... Petitioner

Vs.

1.Government of Tamil Nadu
Rep. By its Additional Chief Secretary
Transport Department,
Secretariat,
Chennai 600 009.

2.Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Rep. by its Managing Director,
No.37, Mettupalayam Road,
Coimbatore – 43.

3.The General Manager,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Tirupur Region,
Tirupur Branch – I,
Tirupur.

4.Tamil Nadu State Transport Corporations Employees'
Pension Fund Trust,
Rep. by its Administrator,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai 600 002. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, after calling for the records pertaining to the order dated 17.02.2023 passed by the first respondent in Letter No.2048/E1/2022-2, quash the same in so far as the conditions imposed and directions issued in Sub Para 1(a) and (b) and consequently direct the respondents to pay the petitioner the arrears of revised monthly pension for the period from 01.05.2022 to 31.03.2023 with interest and to pay the petitioner dearness allowance at the rates as applicable to the serving workmen of the State Transport Corporation from 01.05.2020 and as revised from time to time, as may be fixed by this Hon'ble Court, award costs.

For Petitioner : Mr.G.K.Dharshini
for M/s.V.Ajoy Khose

For Respondents : Mr.T.M.Rajangam for R1
Government Advocate
Mr.A.Vinothraj for R2 to R4

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus, after calling for the records pertaining to the order dated 17.02.2023 passed by the first respondent in Letter No.2048/E1/2022-2, quash the same in so far as the conditions imposed and directions issued in Sub Para 1(a) and (b) and consequently direct the respondents to pay the petitioner the arrears of revised monthly pension for the period from 01.05.2022 to 31.03.2023 with interest and to pay the petitioner dearness allowance at the rates as applicable to the serving workmen of the State Transport Corporation from 01.05.2020 and as revised from time to time, as may be fixed by this Court.

2.The learned counsel appearing for the petitioner submitted that the petitioner joined the service of the second respondent Corporation as a Conductor on 08.12.1993 and he retired from service on 30.04.2020 on attaining the age of superannuation. The wage revision settlement with effect from 01.09.2019 was signed on 24.08.2022 and the monetary benefits were agreed to be paid from 01.01.2022 and the settlement was made applicable to all the regular and permanent workmen who were in service as on 31.08.2019. Hence, the petitioner is also entitled to get pay revision as per the above settlement from 01.09.2019 to 30.04.2020.

3.The learned counsel appearing for the petitioner further submitted that though the petitioner retired on 30.04.2020, PF, Gratuity and earned leave salary were paid to the petitioner only during April, 2022 as per the last drawn salary of the petitioner and not as per the settlement dated 24.08.2022. The fourth respondent revised the petitioner's monthly pension only from April, 2023 and the arrears of difference in pension was not paid to the petitioner. Therefore, the petitioner made representation dated 02.12.2023 to the respondents 2 to 4 seeking to pay the difference in gratuity and earned leave salary and arrears of difference in pension, pursuant to which, the impugned order was passed by the first respondent.

4.The learned counsel appearing for the petitioner further submitted that the issue involved in the writ petition is covered by the decision of the Hon'ble Division Bench of the Madurai Bench of this Court in ***W.A.(MD) No.1240 of 2023 (The Administrator, TNSTC Employees Pension Trust and two others Vs. Pokkuvarthu Kazhaka Oyvu Petra Aluvalar Nala Sangam, Kovai and three others)*** dated ***13.09.2023*** and the said decision was also confirmed by the Hon'ble Apex Court.

5.The learned counsel appearing for the respondents 2 to 4 submitted that the respondent Corporation is a Government undertaking company and hence the respondent has to strictly follow the rules and regulations of the Government. The learned counsel further submitted that based on the 14th wage settlement, the first respondent have issued a direction to the revision of pension in the letter dated 17.02.2023 as the revision of pension to the pensioners/ family pensioners who have retired/ voluntarily retired/ expired between 01.09.2019 and 31.07.2022 from the services of all the State Transport Undertakings covered under 12(3) wage settlement (14th wage settlement) subject to the following conditions:

> *'(a)The revision pension shall be disbursed prospectively even though the last pay drawn of the erstwhile Transport Employees who retired between 01.09.2019 and 31.07.2022 have undergone revision due to implementation of 14th wage settlement signed on 24.08.2022 with notional effect from 01.09.2019.*
> *(b)Dearness allowance at present rate i.e @5% shall be continued without any change.'*

6.The learned counsel appearing for the respondents 2 to 4 further submitted that the fourth respondent strictly followed the Government letter regarding the revision of pension as per the 14th wage settlement and further submitted that the fourth respondent is the appropriate authority for payment of arrears in difference of pension.

7.Heard the arguments advanced on either side and perused the materials available on record.

8.The petitioner joined the service of the second respondent Corporation as a Conductor on 08.12.1993 and he retired from service on 30.04.2020 on attaining the age of superannuation. The wage revision settlement with effect from 01.09.2019 was signed on 24.08.2022 and the monetary benefits were agreed to be paid from 01.01.2022.

9.The grievance of the petitioner is that though the petitioner retired on 30.04.2020, PF, Gratuity and earned leave salary were paid to the petitioner as per the last drawn salary of the petitioner and not as per the settlement dated 24.08.2022 and that the fourth respondent revised the petitioner's monthly pension only from April, 2023 and the arrears of difference in pension and the difference in gratuity and earned leave salary were not paid to the petitioner.

10.Similar issue was considered by the Hon'ble Division Bench of the Madurai Bench of this Court in ***W.A.(MD) No.1240 of 2023 (The Administrator, TNSTC Employees Pension Trust and two others Vs. Pokkuvarthu Kazhaka Oyvu Petra Aluvalar Nala Sangam, Kovai and three others)*** dated ***13.09.2023***, the relevant portion of which, is extracted hereunder:

> "***E. The Discussion & Findings :***
>
> *5. We have considered the rival submissions made an either side and perused the material records of the case.*
>
> *5.1. The respondents 1 and 2, the retired employees, are aggrieved by two specific clauses in the impugned Government Order. Firstly, it can be seen from Rule 20-A quoted above that the Statutory Rules governing the pension, clearly envisages that the pensioners are eligible for dearness allowance at the rate that would be determined by the Government of Tamil Nadu. It goes without saying that the dearness allowance which is fixed for the Government employees from time to time is made*

applicable to the pensioners of the Transport Corporations. While that being the position, the impugned Government Order which is an executive instruction cannot override the Statutory Rule. The said clause in the impugned Government Order virtually has the effect of nullifying Rule 20-A of the Statutory Rules and as such we have no hesitation in holding that the said clause of the Government Order is invalid.

5.2. As far as extending the revised pay and its benefits are concerned, firstly, it can be seen that it was within the realm of the Government to extend or not to extend the revised pay. As a matter of fact, it is the Government which had decided to extend the benefits to the State Public Sector Undertakings vide G.O.Ms.No.319 dated 26.10.2017. As per the above Government Order, it is expressly made clear that while extending, considering the financial position, it can be made applicable with prospective effect or from a future date etc., and the Government specifically directed that the subject be placed before the Board of Directors. The Board of Directors of the State Owned Transport Corporations have *categorically resolved to extend the benefit to the employees with effect from 01.01.2016 and the monetary benefit with effect from 01.10.2017 subject to the approval of the Government. The Government in turn had approved the same vide G.O.Ms.No.134 dated 09.05.2018. As a matter of fact, based on the said Government Order, a circular was issued on 09.05.2018 which reads as follows:*

> *"Hence, it is requested to give necessary instruction to revise the pay and pension for the following employees:*
>
> *(1) The employees covered under 12(3) Wage Settlement and retired/expired/Exist between 01.09.2016 to 31.12.2017.*
>
> *(2) The Supervisors/Officers eligible for 7th Pay Commission and retired/Expired/Exit between 01.01.2016 to 31.03.2018.*
>
> *(3) The pay in respect of the above employees shall be revised as per the references cited and the pension shall be revised and the proposals ave to be sent to their respective audit centres like Erode, Dindigul and Chennai after proper authentication on or before 31.05.2018. Moreover, the individual wise monthly commitment details to be sent to the TNSTC EPF Trust, Chennai through Hard copy and soft copy (E-mail) before 31.05.2018."*

5.3. Thus it can be clear that even

though it was within the realm of the Board of Directors to have postponed the actual financial benefits, they thought it otherwise and consequently even the pension fund trust ordered implementation. When that being so, without even referring to G.O.Ms.No. 134, the impugned Government order in G.O.Ms.No.142, dated 26.08.2019 is issued by restricting the monetary benefit prospectively. In this regard, it is the Government which decided to extend subject to conditions and it is the corporations which expected to extend with or without any modification of the Government Scheme. Once a particular decision of implementing the Revised Pay Rules, is implemented as such granting the benefits retrospectively, then at the time of carrying out of the same, it cannot proclaim one and restrict thereafter. In this regard, useful reference can be made to the Judgment of the Division Bench of this Court in ***Tamil Nadu Electricity Board and Another Vs. G.Sethuraman*** *and Paragraph Nos. 13 and 14 of the said Judgment are extracted hereunder:*

> *"13. In an oft quoted passage in East End Dwelling Co. Ltd v. Finsbury Borough Council, (1951) 2 All.E.R 587, Lord Asquith observed :*
>
> *" If you are bidden to treat an*

imaginary state of affairs as real, you must surely, unless prohibited from doing so, also imagine as real the consequence and incidents which, if the putative state of affairs had in fact existed, must inevitably have flowed from or accompanied it. The statute says that you must imagine a certain state of affairs; it does not say that having done so, you must cause or permit your imagination to boggle when it comes to the inevitable corollaries of that state of affairs"

The above observation has been quoted with approval by the Supreme Court in several decisions e.g. Bhavnagar University v. Palitana Sugar Mills Pvt. Ltd., AIR 2003 SC 511 (para-33), C.W.T v. Trustees of H. E.H., (2003) 5 SCC 122 (para-20), Dipak Chandra Ruhidas v. Chandan Kumar Sarkar, (2003) 7 SCC 66 (para-12), etc.

14. In the present case, the legal fiction which has been created by order dated 7.6.1996 is that the writ petitioner is deemed to have been retrospectively promoted as Executive Engineer from 9.6.1988. Hence full effect must be given to this legal fiction, and for all purposes we have to treat it as if the writ petitioner had in fact been promoted as Class I officer from 9.6.1988, and our eyes should not boggle half way. For these reasons, we fully agree with the view taken by the learned single Judge in the impugned judgment."

(emphasis supplied)

Thus it can be seen that in the instant case also, after making a conscious decision implementing the order partly by way of Statutory Rule and partly by way of extending the benefit, at the final lap, the eyes of the Government had boggled. Therefore the same is impermissible.

F. The Result:

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."

11.Applying the ratio laid down by the Hon'ble Division Bench of the Madurai Bench of this Court in W.A.(MD) No.1240 of 2023 (The Administrator, TNSTC Employees Pension Trust and two others Vs. Pokkuvarthu Kazhaka Oyvu Petra Aluvalar Nala Sangam, Kovai and three others) dated 13.09.2023, which was also confirmed by the Hon'ble Apex Court, this Court is inclined to set aside the impugned order.

12.The writ petition is allowed. The order dated 17.02.2023 passed by the first respondent is set aside. The respondents are directed to extend the benefit as ordered by the Hon'ble Division Bench of the Madurai Bench of this Court in ***W.A.(MD) No.1240 of 2023 (The Administrator, TNSTC Employees Pension Trust and two others Vs. Pokkuvarthu Kazhaka Oyvu Petra Aluvalar Nala Sangam, Kovai and three others)*** dated ***13.09.2023***, to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

01.12.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

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M.DHANDAPANI,J.
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