



W.P.No.4657 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.02.2025

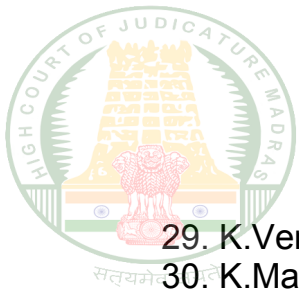
Coram:

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.4657 of 2023 &

W.M.P.No.4660 of 2023

1. M.Raju
2. S.Ganesan
3. N.Manoharan
4. S.V.Jayaraman
5. K.Panchatcharam
6. A.Ramasamy
7. P.Samayamuthu
8. P.Periasamy
9. T.Kuppusamy
10. N.Logarajan
11. N.Balaraman
12. R.Kanagasabapathy
13. L.Subramani
14. P.Munikrishnan
15. S.Venkatesan
16. K.Subramani
17. S.Murugesan
18. R.Kuttiappan
19. G.Annamalai
20. S.Ramasamy
21. L.Thangasamy
22. S.Anthony Muthu
23. A.Krishnan
24. R.Ashalal
25. A.Ramamoorthy
26. S.Ayyappan
27. S.Arumuga Asari
28. C.Chidambaram



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29. K.Venkatesan
30. K.Manikandan
31. C.Lukose
32. P.M.Syed Mohameed Kannu
33. E.Devasagayam
34. M.Mariacil
35. R.Ponnaiyan
36. K.Muthaiyan
37. M.Boothalingam Pillai
38. S.Shanmugam
39. P.Padamanabha Pillai
40. N.Gomathi Asari
41. M.Deivakannu
42. N.Subbian
43. P.Valliammal

Vs.

...Petitioners

1. State of Tamilnadu rep. By is
Additional Chief Secretary
Transport Department, Fort St. George,
Chennai – 600 009
2. The Secretary to the Government,
Finance Department, Fort St. George,
Chennai – 600 009
3. The Principal Accountant General (A&E)
Government of tamilnadu
Teynampet, Chennai- 600018
4. The Administrator
TNSTC Employees Pension Fund Trust
Pallavan House, Anna Salai,
Chennai – 600 002
5. The Managing Director
State Express Transport Corporation,
Pallavan House, Anna Salai,
Chennai – 600 002

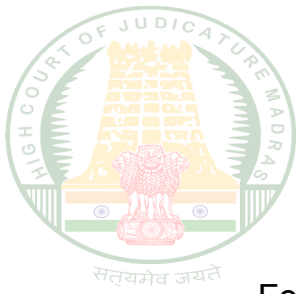


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6. The Managing Director,
TNSTC (Salem) Ltd.,
No.112, Ramakrishna Salai, Salem
7. The Managing Director,
TNSTC (Villupuram) Ltd., Villupuram
8. The Managing Director,
TNSTC (Coimbatore) Ltd.,
No.37, Mettupalayam Road,
Coimbatore – 43
9. The Managing Director,
TNSTC (Trichy) Ltd.,
Trichy
10. The Managing Director,
TNSTC (Madurai) Ltd.,
Bye-pass Road, Madurai – 625 020
11. The Managing Director,
TNSTC (Tirunelveli) Ltd.,
Vaanarapettai, Tirunelveli

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 and 4 to consider the representation of the petitioners 2 to 43 dated 30.12.2022 and pay to the petitioners 2 to 43 and the entitlement arrears payable to them as shown in the annexure to this Writ Petition, without any deduction whatsoever and to stop the recovery of the Government Pension from the petitioners 2 to 43, being made by the 4th respondent and the same may be repaid to the petitioners 2 to 43 with interest @ 15% P.A within a time frame.



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For Petitioners

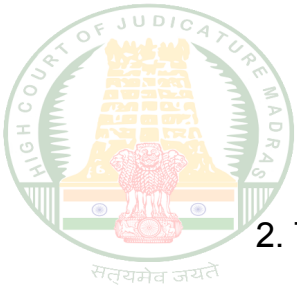
: Mr.M.Ramamoorthi

For Respondents

: Mr.R.U.Dinesh Rajkumar for R1 & R2
Additional Government Pleader
Mr.P.Manorajan for R3
Mr.C.S.K.Sathish for R4
Mr.C.Gauthamaraj for R5, R10 and R11
Mr.K.Raja for R6
Ms.Pavithra for R7
Mr.M.Muralivinodh for R8 and R9
Standing Counsels

ORDER

The petitioners have filed this Writ Petition seeking for an issuance of a Writ of Mandamus directing the respondents 1 and 4 to consider the representation of the petitioners 2 to 43 dated 30.12.2022 and pay to the petitioners 2 to 43 and the entitlement arrears payable to them as shown in the annexure to this Writ Petition, without any deduction whatsoever and to stop the recovery of the Government Pension from the petitioners 2 to 43, being made by the 4th respondent and the same may be repaid to the petitioners 2 to 43 with interest @ 15% P.A within a time frame.



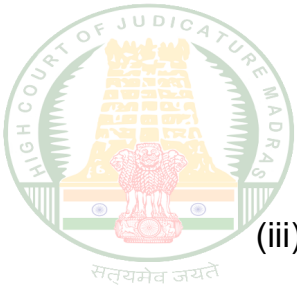
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2. The brief facts of the case are as follows :-

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(i) The petitioners are the members of the Tamilnadu State Transport Corporations retired administrative and technical supervisory staff welfare association (Reg.No.19/2011), Salem West), a society registered under the Taminadu Societis Registration Act. The Petitioners are hereby approaching this Court for the relief on the ground that the Contempt Petition no.53 of 2020 was closed by this Court on 27.09.2022, granting liberty to the petitioners herein to work out their remedy in respect of the pensionary benefits payable to them.

(ii) Under the Government order No.284 dated 31.03.1980, the pro-rata pension of an employee is calculated as on the date of transfer to various transport corporations, but payment of pension is suspended during the remaining period of employment in transport corporations. Under the aforesaid order, the crucial date for calculating terminal benefits was fixed to be 01.05.1975 or the date from which the employee continuously working in the corporation, whichever is later. The said G.O.was quashed by this Court by way of a Judgment dated 18.01.1983 in W.P.Nos.1917 and 1928 of 1980 in so far it took away the benefits conferred in G.O.Ms.No.378 dated 18.04.1975.



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(iii) The petitioner's Association have made representations to the respondents 1 to 4 requesting them to pay the petitioners' entitlement arrears without any deduction whatsoever and to stop the recovery of the Government Pension from the petitioners and the same may be repaid to the petitioners with interest @ 15% per annum wherever the members of the petitioners' association have passed away, the family pension may be paid to their legal heirs. Hence this petition.

3. Per contra, the learned Additional Government Pleader appearing for the respondents 1 and 2 by way of a detailed counter submitted as follows:-

(i) The petitioners herein, who worked in a short spell of service in the Government were absorbed in the Transport Corporations with continuity of service taking their original date of joining in the Government Department as the date of joining for the purpose of transport corporations service. There was no break in service for these petitioners and all their terminal benefits were settled based on their original date of joining in the Government Department. Further, the petitioners received Gratuity, provident fund, leave salary and other benefits by reckoning the original date of joining in the Government Department, i.e., Tamilnadu State Transport Department.



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(ii) That apart, as per Rule 14(b) under Part VI Pensionary benefits, the double pension drawn by these petitioners needs to be taken into account in accordance with Section 14 (b) of the Tamilnadu State Transport Corporation Employee Pension Fund Rules. The claim of the petitioners that these deductions should not be implemented is unjustified.

(iii) The petitioners were able to enjoy more benefits during their service in the transport corporation, since it operates as a company, governed by the Provisions of Factories Act, 1948 (Central Act 63 of 1948) Industrial Disputes Act 1947, (Central Act 4 of 1947), Workmen Compensation Act 1923 (Central Act of 1923), Payment of Wages Act 1936 (Central Act 4 of 1936) and other Acts appropriate to factories. The welfare measures provided to them were more advantageous compared to their previous government service, where the revision of scales occurred only after a span of 10 years through pay commissions. Under the Section 12(3) of the Central Act 4 of the Central Act of 1947 Industrial Disputes Act, later the settlement was covered for these petitioners and allowed them to the benefit from the revision of scales every 3 years instead of the original 10 years.



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(iv) The respondents have already spent significant time and energy for issuing the following government orders in respect of the petitioners:

S.No.	Case Nos	G.O.Nos.
1	W.P.Nos.5856 of 2006, 6891 of 2006 and 23181 of 2006	G.O.(Ms.) No.42, Transport (RW) Department dated 27.05.2005
2	W.A.Nos.111 of 2007, 112/2007 and 113 of 2007	G.O.(Ms) No.96, Transport (RW1) Department, dated 31.07.2015 G.O.(Ms) No.33, Transport (RW1) Department, dated 04.03.2016 G.O.(Ms) No.85, Transport (RW1) Department, dated 04.03.2016
3	Rev.App.(Diary) No.1756/2011	G.O.(Ms) No.96, Transport (RW1) Department, dated 31.07.2015

However, in the limit of clear cut direction of the Hon'ble Division Bench order in Contempt petition No.53 of 2020 dated 27.9.2022, the petitioners have filed this present petition, thereby pleaded to dismiss the petition.

4. Heard the learned counsel on either side and perused the documents placed on record.

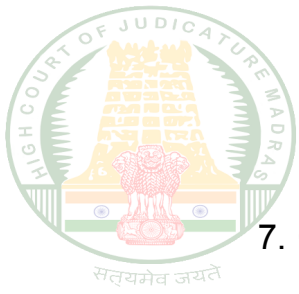


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5. It is to be noted that the petitioners herein are aged about 70 to 80 years and there is no details regarding the date of appointment or the date of retirement. Further, there is also no details as to what was the service rendered by them in the respondents/Department and without any details they have approached this Court. According to the respondents, various writ petitions and Writ Appeals have been filed and the matter went up to Supreme Court and necessary amendments were issued in G.O.(MS) No.96 Transport (RW1) Department dated 31.07.2015 to set aside clause 5(b) of G.O.Ms.No.4, Transport (RW) Department, dated 27.05.2005 that the erstwhile Tamil Nadu State Transport Department Employees, who were absorbed in Tamilnadu State Transport Corporations and retired from the Tamilnadu State Transport Corporation be paid minimum pension with effect from 01.01.1988, if they have rendered / completed twenty and a half years qualifying service and more in the erstwhile Tamilnadu State Transport Department as on 01.04.1982.

6. It is also brought to the notice of this Court that the respondents have already paid all the amount, which the petitioners are entitled to and there is no arrears due as on date payable to the petitioners.



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7. Considering all the above said facts and circumstances of the case, this Court is inclined to direct the petitioners to approach the Administrator, 4th respondent herein with a fresh representation within a period of four weeks from the date of receipt of copy of a order and the same shall be considered by the said adminisrator and appropriate orders shall be passed by taking note of the order passed by the Hon'ble Supreme Court and this Court in Contempt Petition No.53 of 2020 within a period of sixteen weeks thereon.

In view of the above, the Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

05.02.2025

Index : Yes / No;
Internet : Yes / No
Speaking Order / Non Speaking Order
ssd

To

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Transport Department, Fort St. George,
Chennai – 600 009
2. The Secretary to the Government,
Finance Department, Fort St. George,
Chennai – 600 009



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3. The Principal Accountant General (A&E)
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V.BHAVANI SUBBAROYAN, J.

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