

Rev.aplw(MD).No.193 of 2024 etc batch cases

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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JUDGMENT RESERVED ON : 03.04.2025

JUDGMENT PRONOUNDED ON : 16.04.2025

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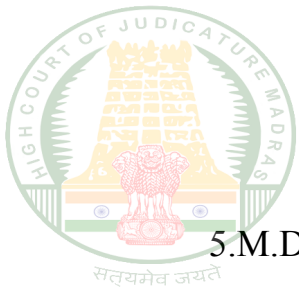
THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

REV.APLW(MD)Nos.193, 194, 229,
230 of 2024 and 23 of 2025
and Cont.Pet(MD).Nos.1273, 1281,
3122 of 2024 and 268 of 2025
and
WMP(MD).Nos.20034, 20077, 24153
& 24155 of 2024 and 3819 of 2025

REV.APLW(MD)Nos.193, 194, 229,
230 of 2024 and 23 of 2025

The Management of Tamil Nadu
State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli Region
Represented by its General Manager
Tirunelveli
.....Petitioner/Appellant
in all the review applications
Vs

1. R.Muthu KrishnanRespondent/Writ petitioner Rev.No.193 of 24
- 2.S.Syed Meeran JimyaRespondent/Writ petitioner Rev.No.194 of 24
- 3.J.JudeduraiRespondent/Writ petitioner Rev.No.229 of 24
- 4.R.MuruganRespondent/Writ petitioner Rev.No.230 of 24



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5.M.Dechain

....Respondent/Writ petitioner Rev.No.23 of 25

WEB CONFERENCE
Cont.Pet(MD).Nos.1273, 1281,
3122 of 2024 and 268 of 2025

1.R.Muthu Krishnan

....Petitioner/Petitioner
Cont.P.No.1273 of 2024

2. S.Syed Meeran Jimya

....Petitioner/Petitioner
Cont.P.No.1281 of 2024

3.M.Dechain

....Petitioner/Petitioner
Cont.P.No.3122 of 2024

4.R.Murugan

....Petitioner/Petitioner
Cont.P.No.268 of 2025

Vs

1.Thiru.Saravanan

General Manager

Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,

Tirunelveli Region

Tirunelveli

...Contemnor/Respondent
in Cont.P.Nos.1273 & 1281 of 2024

2.Thiru.Arumugam

General Manager

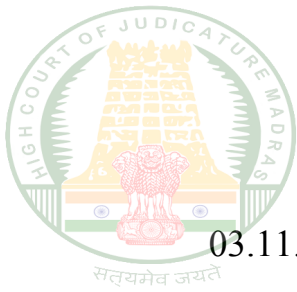
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,

Tirunelveli Region

Tirunelveli

...Contemnor/Respondent
in Cont.P.Nos.3122 of 2024
& 268 of 2025

Common Prayer in Review Applications:- Review Applications filed under Order XLVII, Rule 1 of the C.P.C, 1908, to review the orders passed in WP(MD).Nos.26385, 26381, 26383, 26382 and 26384 of 2023 dated



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03.11.2023 and dismiss the writ petitions.

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Common Prayer in Contempt Petitions: Contempt Petitions have been filed under Section 11 of the Contempt of Court Act, 1971, to punish the contemnors/respondents for wilfully disobeying and not complying with the orders of this Court dated 03.11.2023 in WP(MD).Nos.26385, 26381, 26384 and 26382 of 2023.

For Petitioners : Mr.K.Ramaiah
Standing Counsel in all the review petitions

Mr.S.Arunachalam
in all the contempt petitions

For Respondents : Mr.S.Arunachalam
in all the review petitions

: Mr.D.Jebaraj
Standing Counsel in contempt petitions

COMMON JUDGMENT

These review applications have been filed by the respondent transport corporation in WP(MD).Nos.26385, 26381, 26383, 26382 and 26384 of 2023 challenging the order dated 03.11.2023.

2.Contempt Petitions have been filed alleging violation of the orders passed by this Court in WP(MD).Nos.26385, 26381, 26384 and 26382 of 2023 by an order dated 03.11.2023.



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3.Since the issue involved in the review applications and the contempt petitions are intertwined, they are heard together and a common order has been passed.

(A) Factual Matrix:

4.The writ petitioners were working as staff in the respondent transport corporation. Out of five writ petitioners, three of them had attained superannuation on 31.01.2020, one of them has attained superannuation on 31.12.2019 and the other has attained superannuation on 31.03.2020. After they had attained superannuation, the management of the transport corporation and trade union have entered into the 14th wage settlement under Section 12(3) of the Industrial Disputes Act on 24.08.2022. According to the writ petitioners, the said wage settlement is applicable to all those employees who were in service on 01.09.2019. However, when they got superannuated, their wages were not refixed on the basis of new wage settlement. It is their further grievance that the arrears of wage from 01.09.2019 till the date of superannuation was not paid to them.

5.It was further contended that based upon the re-fixation of pay scale, their terminal benefits should also be refixed. Since their request was not considered by the management, they had filed the above said writ



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petitions. This Court has passed orders directing the respondent transport corporation to confer the said benefit within a period of 12 weeks from the date of receipt of copy of the order.

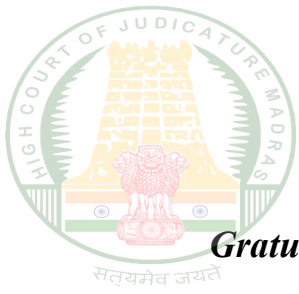
6. Alleging violation of the orders passed in the four writ petitions, the above said contempt petitions have been filed by the workmen.

7. Seeking review the orders passed by this Court, the management of the transport corporation have filed the above said review petitions.

(B) Submissions of the counsels:

8. The learned standing counsel appearing for the transport corporation had contended that even though the wage settlement is applicable to all those who were in service on 01.09.2019, as per Clause-1 of the settlement, the monetary benefits would be disbursed only with effect from 01.01.2022. Even the employees who are serving today, have received the monetary benefits only from 01.01.2022 onwards. The writ petitioners having retired prior to 01.01.2022, would not be eligible for re-fixation of pay scale or enhanced terminal benefits.

9. The learned counsel for the transport corporation has relied upon a judgment of the Hon'ble Supreme Court reported in *(1984) 4 SCC 356 (Jeewanlal Ltd., and others Vs. Appellate Authority under the payment of*



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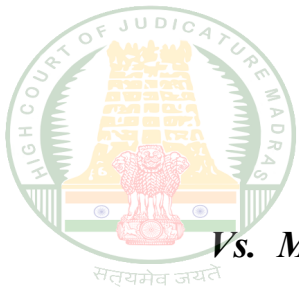
Gratuity Act and others) to contend that the gratuity can be released only

WEB COPY on the basis of wages last drawn by the employee.

10.He had further contended that as per Clause-37 of the settlement, it has been made clear that the monetary benefits would be disbursed only from 01.01.2022 onwards. Clause Nos.1 and 37 of the wage settlement were not brought to the notice of the Court when the writ petitions were allowed in the admission stage. Hence, he prayed for reviewing the orders passed by this Court.

11.Per contra, the learned counsel appearing for the workmen had contended that all the employees who are in service on 01.09.2019 would be eligible for notional enhancement of salary as per 14th wage settlement dated 24.08.2022. 01.01.2022 was fixed only for granting monetary benefits to those who continue in service. When there is a notional re-fixation of salary from 01.09.2019, the petitioners who had retired after 01.09.2019 should be conferred with the said benefit and their salary should be re-fixed. As a consequence, they should be paid arrears of salary till their date of superannuation and the terminal benefits should also be revised.

12.The learned counsel for the workmen had relied upon the Division Bench judgment of this Court reported in **2007 (1) L.L.N.348 (Selvaraj P.**



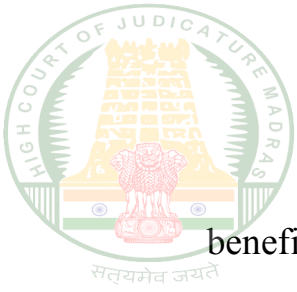
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Vs. Management of Shardlow India Ltd. Chennai and others), and

contended that the term 'wages' which is defined under the Gratuity Act, must include not only the wages paid, but also what is payable to a workman. When an employee is entitled to a notional revision of pay scale from 01.09.2019, the management cannot contend that they would pay gratuity on the actual wages that were paid on the date of their retirement.

13.The learned counsel for the workmen has also relied upon a judgment of this Court reported in ***2009 4 MLJ 160 (A.M.Sampath Vs. Bank of Baroda rep.by its Chairman & Managing Director & another)*** in support of his contention. The learned counsel has also relied upon a Division Bench judgment of this Court reported in ***2009 (3) L.L.N.207 (Indian Overseas Bank, Chennai Vs. Regional Labour Commissioner (C) and Appellate Authority, Payment of Gratuity Act, Chennai and others)*** and contended that the terms of an agreement cannot take away the rights of parties, when better benefit is given to employees.

14.The learned counsel for the workmen has further relied upon a judgment of the Hon'ble Supreme Court reported in ***2007 (1) L.L.N.684 (Management of Karnataka State Road Transport Corporation .Vs. R.Krishna Reddy)*** and contended that where an employee is entitled to the



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benefit of wage revision and gratuity should only be based upon such revised wages. He has also relied upon a judgment of this Court in ***W.P.Nos.29965 and 29966 of 2016 (M.S.Sellandi & others Vs. The Managing Director, Tamil Nadu State Transport Corporation, Salem and others)*** dated 30.09.2016 to contend that when a pay revision is granted to a serving employee, the same should be extended to the employee who had attained superannuation also.

15.The learned counsel appearing for the workmen has further contended that the transport corporation has issued a letter on 17.02.2015 restricting the family pension arrears from January 2022 instead of the date of retirement. This letter was challenged in WP(MD).No.8910 of 2024 and the same was allowed by this Court on 25.06.2024. The management of the transport corporation has accepted the said order and the pension has been revised from the date of retirement. Therefore, it is clear that the interpretation of the management that the monetary benefits would flow only from 01.01.2022 is not legally sustainable. He had further contended that the management has not made out any ground for reviewing the order invoking Order 47 Rule 1 of C.P.C.



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16.Heard both sides and perused the material records.

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17.The writ petitions were filed by the retired staff of the transport corporation seeking revision of wages, arrears of wages and re-fixation of terminal benefits based upon the 14th wage settlement dated 24.08.2022.

18.Admittedly all the petitioners have retired prior to 01.01.2022. After hearing the standing counsel for the transport corporation, this Court has proceeded to allow the writ petitions in the admission stage directing the transport corporation to release the benefits within a period of 12 weeks.

19.The review applications have been filed by the management of the transport corporation contending that Clause 1 and 37 of the 14th wage settlement dated 24.08.2022 have not been brought to the notice of the Court when the writ petitions were disposed of in the admission stage. Therefore, an error has crept in the order granting relief of the writ petitioners for which they are not eligible under the 14th wage settlement.

20. I have carefully perused the 14th wage settlement dated 24.08.2022. As per paragraph No.1 of Clause-I, the 14th wage settlement is applicable to all the employees who are in service on 01.09.2019 and their basic pay would be revised from 01.09.2019 onwards. In paragraph No.3 of



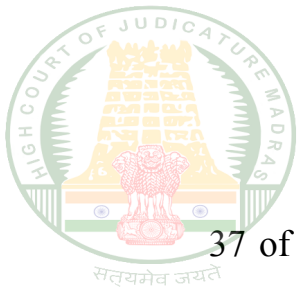
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Clause-1, it is stated that the employees are already receiving the interim relief from 01.02.2021 onwards at the rate of Rs.1000/- per month. The interim relief would be adjusted in the arrears of wages to be paid from 01.01.2022 to 31.07.2022. In Clause 37(b), it is specifically mentioned that the monetary benefits would be released from 01.01.2022 onwards after deducting the interim relief which was already granted to the employees.

21.A cumulative reading of Clause 1 and Clause 37 of the 14th Wage Settlement dated 24.08.2022 reveals that though 14th wage settlement is applicable to those who are in service on 01.09.2019, yet the monetary benefits would start flowing only from 01.01.2022. The interim relief that was granted from 01.02.2021, would be adjusted from the monetary relief that will be granted from 01.01.2022. Therefore, it is clear that even the employees who are serving as on today, have not received any monetary benefits from 01.09.2019 till 31.12.2021. Therefore, an employee who had retired prior to 01.01.2022 cannot place himself in a higher pedestral and claim monetary benefits from 01.09.2019 onwards.

22.As per Order 47 Rule 1 of C.P.C if a new and an important matter could not be produced at the time when the order was passed, the same can be a ground for reviewing the order of the Court. Admittedly, Clause 1 and



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37 of the 14th wage settlement were not brought to the notice of the Court when the writ petitions were allowed in the admission stage. Had it been brought to the notice of the Court, this Court would not have passed an order directing the transport corporation to release the benefits to the petitioner who are not eligible to receive the same under the 14th wage settlement.

23.The Hon'ble Supreme Court in a judgment reported in **(2009) 14 SCC 663 (Inderchand Jain (dead) through Lrs. Vs. Motilal (dead) through Lrs.)** in Paragraph No.33 has held as follows:

“33. The High Court had rightly noticed the review jurisdiction of the court, which is as under:

"The law on the subject - exercise of power of review, as propounded by the Apex Court and various other High Courts may be summarized as hereunder:

(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 C.P.C.

(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long drawn



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process of reasoning on the points where there may be conceivable be two opinions.

(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an Advocate.

(v) An application for review may be necessitated by way of invoking the doctrine 'actus curiae neminem gravabit'."

24.In view of the above said facts, an error has crept in the order of this Court in view of the fact that Clauses 1 and 37 were not brought to the notice of the Court when the writ petitions were allowed in the admission stage.

25.In view of the above said deliberations, this Court is inclined to pass the following orders:

a)All the review applications stand allowed and the registry is directed to restore the writ petitions on file and post the same before the appropriate Court for fresh hearing.



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b) All the contempt petitions stand closed. No costs. Consequently,
connected miscellaneous petitions are closed.

16.04.2025

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

The Section Officer
Writ Posting
Madurai Bench of Madras High Court
Madurai.



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R.VIJAYAKUMAR, J.

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