BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.20263 of 2024

S.Kumaraguru ... Petitioner

Vs.

1. The Administrator,
The Tamilnadu Transport Corporation,
Retired Employees Pension Trust,
Thiruvalluvar Illam,
No.2, Pallavan Salai,
Chennai – 600 002.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited,
No.27, New Railway Station Road,
Kumbakonam,
Thanjavur District 612 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of mandamus directing the respondents to pay the difference amount of 45% Dearness Allowance at the existing rates of 50% fixed over to the petitioner in themonth of May 2024 which was standing to the petitioner's credit at the time of retirement along with 18% interest from the date of the retirement to till date of payment.

For Petitioner	:	Mr.P.Manoharan
For R1	:	Mr.S.C.Herold Singh Standing Counsel
For R2	:	Mr.K.Ramaiah Standing Counsel

ORDER

This Writ Petition has been filed seeking a direction to the respondents to pay the difference amount of 45% Dearness Allowance at the existing rates of 50% fixed over to the petitioner in the month of May 2024, which was standing to the petitioner's credit at the time of retirement along with 18% interest from the date of the retirement to till date of payment.

2. Heard the learned counsel for the petitioner and the learned standing counsels appearing for the respondents and perused the materials available on record.

3. The case of the petitioner is that he worked as Clerk in the respondent Corporation and thereafter promoted as the Assistant and retired from service on 31.05.2024 on attaining the age of superannuation.

4. The learned counsel for the petitioner submits that retirement benefits payable to the petitioner would be paid on the date of retirement itself and with regard to the dearness allowance, the petitioner is entitled to the percentage of dearness allowance as fixed by the State Government to the in-service employees in the light of the order passed by this Court in WP(MD)No.1447 of 2022 and batch dated 02.03.2023.

5. The learned counsel further contends that at the time of retirement of the petitioner in the month of May 2024, the existing rate of 50% of dearness allowance was fixed to the petitioner. But the respondents have not paid the dearness allowance at the rate of 50%. They have paid only 5% dearness allowance. In spite of repeated representations, there is no action. Finally, the petitioner submitted his representation on 10.08.2024 to the respondents. There is no response from the respondents. Aggrieved by the inaction of the respondents,the petitioner filed this writ petition.

6. Separate counter affidavits have been filed by the respondents 1 and 2.

7.In the counter affidavit filed by the first respondent, it is averred that the petitioner, who attains the age of superannuation, is eligible for pension as per the Tamil Nadu State Transport Corporation Employees Pension Fund Trust Rules, which stipulates that the petitioners are eligible for nominal dearness allowance and that may be determined by the Government of Tamil Nadu. At the time of retirement of the petitioner, dearness allowance payable to the petitioner is only 5% but by applying G.O.(Ms.)No.142, Transport and dated 26.08.2019, the petitioner was paid Rs.10,420/- towards pension with dearness allowance. It is further averred that the issue pertaining to the dearness allowance was subjudiced and was ordered in favour of the petitioner. However, a curative petition was filed and it is pending and without prejudice to the curative petition and in compliance of the order passed in WP(MD)No.1147 of 2020 dated 02.03.2023, the respondents fixed the dearness allowance from existing rate of 5% to 14%. The petitioner is entitled for the same.

8. Having heard the submission of the respective counsels and on careful examination of the materials available on record, it appears that as per the admission made in the averments in the counter affidavit filed by the first respondent, the respondents are paying dearness allowance at the rate of 14% only to the petitioner. But, as per the orders of this Court, the petitioner is entitled for 50% dearness allowance. The other averments made in the counter affidavit with regard to the financial condition of the respondent Corporation is irrelevant for this Court to consider the case of the petitioner.

9. In the considered opinion of this Court, the petitioner is entitled for 50% dearness allowance as per the order passed by this Court, which was confirmed by a Division Bench in its judgment dated 13.09.2023 in WA(MD)No.1240 of 2023 and as per the dismissal order of the Apex Court dated 06.02.2024 in the appeal preferred by the Management of the Transport Corporation.

10. In view of the above, this writ petition is allowed with a direction ot the respondents to pay the difference amount of 45% of dearness allowance to the petitioner from the month of May 2024 along with 6% interest till the date of payment.

There shall be no order as to costs.

20.03.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
CM

To:
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2.The Managing Director,
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BATTU DEVANAND, J.

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