

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.07.2015

CORAM

THE HON'BLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.19445 of 2015

C.Rajakumar

..

Petitioner

Vs.

Tamilnadu State Transport Corporation,
(Villupuram- I) Ltd.,
Rep.by its General Manager,
Salaimesu, Vezhutha Reddy Post,
Villupuram - 605 602.

..

Respondent

Prayer:- The Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, after calling for the record pertaining to the Lr.No.5842/42/TNSTC(V)/2015, dated 20.04.2015, of the respondent and quash the same and consequently, direct the respondent to pay daily wage as per 12(3) settlement dated 30th September 1992 from the date of initial appointment of the petitioner.

For Petitioner : Mr. S.T.Varadarajulu
For Respondent : Mr.P.Kannan Kumar

ORDER

The writ petition is filed challenging the letter dated 20.04.2015, of the respondent and for a consequential direction to the respondent to pay wages to the petitioner as per 12(3) settlement dated 30th September 1992 from the date of his initial appointment.

2.The petitioner made a representation dated 02.02.2015 to the respondent stating that he is not paid wages, which he is entitled to. According to the petitioner, he is an employee on daily wage basis.

3.Earlier, the petitioner filed writ petition in W.P.No.5842 of 2015 seeking to pay him wages, which he is entitled to, as per 12 (3) settlement. This Court passed an order dated 04.03.2015 in W.P.No.5842 of 2015 with a direction to the respondent therein to dispose of his representation dated 02.02.2015.

4. According to the petitioner, he is paid wages @ Rs.229/- per day. He relied on para - 12 of the Memorandum of Settlement dated 30.09.1992, under Section 12(3) of the Industrial Disputes Act, 1947 and the same is extracted hereunder:

"DETERMINATION OF DAILY RATES

12. In order to uniformly regulate the payment of daily rate of wages for different categories of employees in the STCs, the following procedure shall be adopted:

The lowest level of the basic pay in the lowest scale of pay applicable for the category shall be added to the Variable Dearness Allowance applicable for the previous quarter and the sum so arrived shall be divided by 26. The quotient rounded off to the nearest rupee shall be determined as the daily rate for a person in that category. This rate shall be revised once in three months taking into account the change in AICPI points. Since the VDA applicable for the current quarter is not known at the commencement of the quarter, in order to avoid confusion and for administrative convenience, the VDA rate applicable for the previous quarter shall be taken for this purpose.

Average AICPI for the quarter	Applicable for calculating the daily rate
January - March	July - September
April - June	October - December
July - September	January - March
October - December	April - June

That is, for the month of September 1992, the average AICPI points for January - March, namely 1127 points, should be taken and the VDA calculated as per the present settlement. For the months of October, November and December 1992, the average AICPI points of April-June, namely 1152 points, should be taken and so on. The STCs shall accordingly pay daily rate to different categories of employees on the above basis effective 1.9.1992. Since the daily rate is arrived on 1/26 basis, the weekly off shall be treated as weekly off with wages."

5. According to him, as per clause - 12 of the settlement, he is entitled wages at the rate of Rs.541/- per day.

6.I am not going into the calculation made by the petitioner. I make it clear that the petitioner is entitled to daily wage as provided in para-12 of the Memorandum of Settlement. Now, the impugned order dated 20.04.2015 is passed by the respondent, wherein it is not made clear as to whether he has been paid wages as per the 12(3) settlement or not. Hence, in my view, the impugned order is liable to be interfered with.

7.In similar circumstances, this Court passed an order dated 23.09.2008 in W.P.No.23199 of 2008 directing the respondents therein to pay wages for the petitioners / drivers therein, in terms of the settlement. In that case, the petitioners / drivers therein were paid wages at the rate of Rs.213/- per day.

8.This Court also passed an order dated 01.07.2010 in W.P.No.7961 and 8223 of 2009 directing the respondent Transport Corporation therein, to pay wages in terms of the settlement.

9.At this juncture, it is also useful to take note of the fact that no driver would be available for daily wage at the rate of Rs.229/- and even no unskilled labour would be available for daily wage at the rate of Rs.229/-, which is also less than the minimum wages prescribed under Minimum Wages Act.

10.When the Transport Corporation entered into settlement under Section 12(3) of the Industrial Disputes Act, agreeing to pay daily wages based on the lowest scale of pay applicable for the post along with dearness allowance and the same shall be divided by 26 as one day wages, the same shall be complied with in its letter and spirit. The applicable dearness allowance changes once in six months and accordingly, the daily wages also could be revised.

11.Hence, while quashing the impugned order, a direction is issued to the respondent Transport Corporation to pay wages to the petitioner as per the aforesaid 12 (3) settlement and also in the light of the orders of this Court, referred to above and the arrears of wages shall be paid within a period of eight weeks from the date of receipt of copy of this order.

12.With the above observation and direction, the writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

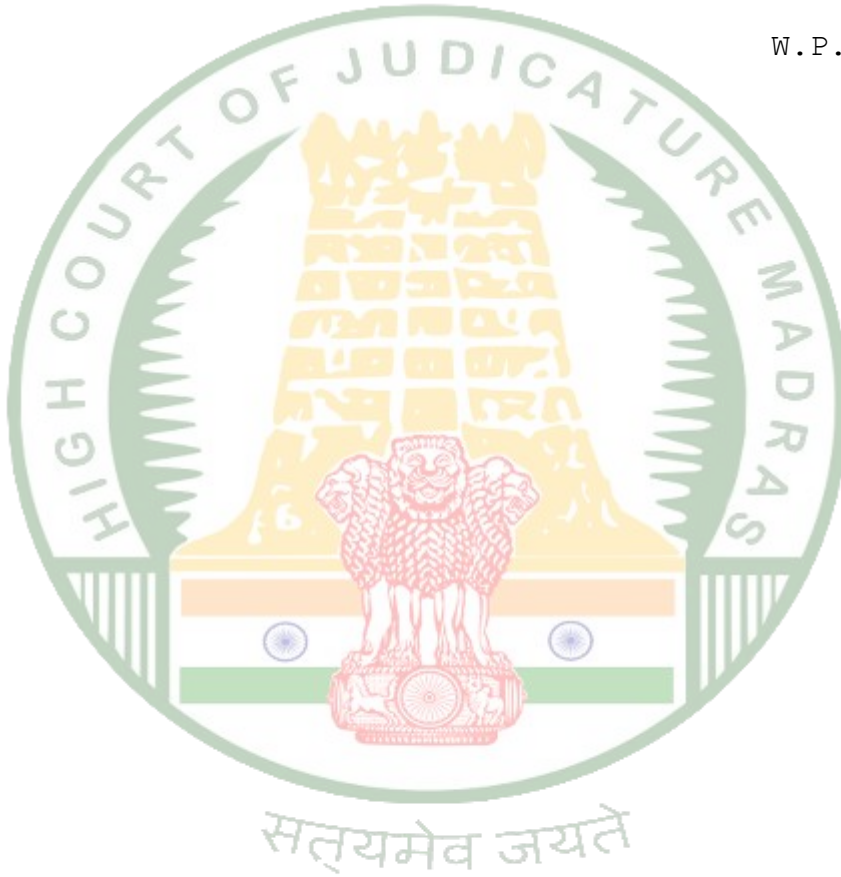
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To
The General Manager,
Tamilnadu State Transport Corporation,
(Villupuram- I) Ltd.,
Salaamedu, Vezhutha Reddy Post,
Villupuram - 605 602.

+1 cc to Mr. P. Kannankumar, Advocate, SR 32858
+1 cc to Mr. S.T. Varadarajulu, Advocate, SR 32834

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