

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 31.01.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.26478 of 2018
and
W.M.P.Nos.30779 and 30784 of 2018

- 1.Pokkuvarathu Kazhaka Oyvu Petra
Aluvalar Nala Sangam Kovai,
(Regd.No.269/2011)
Rep.by its Secretary,
B-25, Cheran Colony, Thudiyalur (Post),
Coimbatore-641 034.
- 2.K.Singaram ...Petitioners
- Vs
- 1.The Additional Chief Secretary to Government,
Transport Department,
Secretariat,
Fort St.George, Chennai-600 009.
- 2.The Additional Chief Secretary to Government,
Finance Department,
Secretariat,
Fort St. George, Chennai-600 009.
- 3.The Administrator,
TNSTC Employees Pension Fund Trust,
SETC Office Complex,
2, PallavanSalai, Chennai-600 002.
- 4.The Managing Director,
State Express Transport Corporation Tamil Nadu Ltd,
Thiruvalluvar House,
Pallavan Salai, Chennai-600 002.
- 5.The Managing Director,
Tamil Nadu State Transport
Corporation (Coimbatore) Ltd,
37, Mettupalayam Road,
Coimbatore-641 043. ...Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents 1 to 5 to disburse the revised terminal benefits including pension together with the arrears to the members of the 1st petitioner Association including the second petitioner consequent to the revision of pay in terms of G.O.Ms.No.303 dated 11.10.2017 Finance (Pay Cell) Department read with G.O.No.134 Transport (D) Department dated 09.04.2018 issued by the first respondent and the consequential Circular issued dated 09.05.2018 by the third respondent together with 18% interest per annum.

For petitioners : Mr.N.G.R.Prasad for
M/s.Row and Reddy

For respondents : Mr.R.S.Selvam,
Government Advocate for R1 and R2

:Ms.Rajini Ramadoss for R3 to R5

O R D E R

This writ petition has been filed by the Secretary of the first petitioner Association. The Association has been formed for the welfare of the retired officers of the Transport Corporations. The second petitioner is one of the member of the first petitioner- Association.

2.This writ petition has been filed for issuance of a Writ of Mandamus directing the respondents to pay the revised pension to the members of the petitioner-Association who have retired from the fourth and fifth Transport Corporations between 01.01.2016 and 31.03.2018 as per the orders issued by the respondents vide G.O.(Ms).No.134 Transport (D) Department dated 09.04.2018 which was issued based on G.O.Ms.No.303 Finance (Pay Cell) Department dated 11.10.2017, by which the date of effect is fixed notionally from 01.01.2016 and the monetary benefit will be with effect from 01.10.2017.

3.The first petitioner has 150 members, of which 39 have retired from the fourth and fifth respondent Corporations between 01.01.2016 to 31.03.2018 and the third respondent Pension Trust is paying pension on behalf of the State Transport Corporations in Tamil Nadu. Pursuant to the repeated demands to revise the pay, the Seventh Pay Commission has recommended revision of pay and allowances retrospectively with effect from 01.01.2016 and G.O.Ms.303 dated 11.10.2017 Finance (Pay Cell) Department was issued by the Government of Tamil Nadu ordering revision of pay retrospectively with effect from 01.01.2016 notionally and monetary benefits were given with effect from

01.10.2017. Following the same, the first respondent Transport Department after getting approval from the Board of all the State Transport Corporations in the State of Tamil Nadu including the respondents 4 and 5 issued G.O.(Ms).No.134 Transport(D) Department on 09.04.2018. The said Government order was given effect to and salaries of the employees of the Transport Corporation were revised and the same have been paid to those who were on rolls on 01.04.2018 and arrears were also paid to them. In so far as the employees who have retired between 01.01.2016 and 31.03.2018, the respondents have revised the salary and have paid the difference in salary based on the said revision and the same has been duly credited to the bank accounts of the respective retired employees directly. But till date they have not been paid the revised pension. Similarly the fourth and fifth respondents have not released the revised terminal benefits (i.e. difference between the terminal benefit payable in view of the revision of pay and the terminal benefits already paid). In spite of the above, for certain extraneous consideration, the respondents 3 to 5 are dragging their feet and as a result, the members of the first petitioner Association are suffering a lot, according to the learned counsel for the petitioners.

4.It is also stated that the third respondent vide Letter No.23/P2/TNSTC EPFT/2018-2173 dated 09.05.2018, sought for instructions from the fourth and fifth respondents to revise the pension in respect of the employees who were on rolls as on 01.01.2016 and subsequently the retired/ expired, upto 31.03.2018. the respondents 3 to 5 have not done anything thereafter. Even though the Government issued G.O.(Ms) No.134 Transport (D) Department dated 09.04.2018, the respondents failed to pay the revised terminal benefits and pension to the petitioners, which is per se illegal. The third respondent-Trust which was been formed for the purpose of welfare of the retired employees of all the State Transport undertakings in the State of Tamil Nadu has failed in its duties and responsibilities.

5.It is stated that the first petitioner Association has sent representations dated 12.07.2018 and 10.08.2018 to the respondents. In spite of receipt of the same, the respondents are sitting over the same for certain extraneous consideration. It is stated by the first petitioner that the data of all the employees have been computerised by the respondents and it hardly requires few minutes for the respondents to issue necessary proceedings for disbursing revised terminal benefits and pension consequent to the revision of pay, but unfortunately for certain extraneous consideration, the respondents are sitting over the file.

6.With the above background the petitioners have come up before this Court, for issuance of a Writ of Mandamus directing

the respondents 1 to 5 to disburse the revised terminal benefits including pension together with the arrears to the members of the 1st petitioner Association including the second petitioner consequent to the revision of pay in terms of G.O.Ms.No.303 dated 11.10.2017 Finance (Pay Cell) Department read with G.O.No.134 Transport (D) Department dated 09.04.2018 issued by the first respondent and the consequential Circular issued dated 09.05.2018 by the third respondent together with 18% interest per annum.

7. Mr.R.S.Selvam, learned Government Advocate takes notice for the respondents.

8.The learned counsel for the petitioner has produced the copy of the order passed by a Division Bench of this Court in W.P.(MD)No.21025 of 2018 dated 23.10.2018 in respect of similar situated persons and submitted that the same order may be passed in the present writ petition also, for which the learned counsel for the respondents has no serious objection.

9. In W.P.(MD)No.21025 of 2018 dated 23.10.2018, it has been held as under:

"Admittedly, the benefits of 7th pay Commission is not applicable to the workmen category and they are governed by Settlement and Award. In case, the benefits of 7th pay Commission had already been granted to the in-service candidates (Workmen Category), as stated by the petitioner, the same benefits shall be extended to the others. In my view, as the petitioner is coming under managerial category, the benefits of 7th pay Commission has got to be extended to the petitioner taking into account any cut-off date for granting the benefits. In case, the petitioner comes within the cut-off date, within a period of two months from the date of receipt of a copy of this order. The arrears shall be paid to the petitioner together with interest at 6% per annum."

10. In view of the above, the writ petition is disposed of on the same lines as observed in W.P.(MD)No.21025 of 2018 dated 23.10.2018. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

KM/tta

To

- 1.The Additional Chief Secretary to Government,
Transport Department,
Secretariat,
Fort St. George, Chennai-600 009.
 - 2.The Additional Chief Secretary to Government,
Finance Department,
Secretariat,
Fort St. George, Chennai-600 009.
 - 3.The Administrator,
TNSTC Employees Pension Fund Trust,
SETC Office Complex,
2, PallavanSalai, Chennai-600 002.
 - 4.The Managing Director,
State Express Transport Corporation Tamil Nadu Ltd,
Thiruvalluvar House,
Pallavan Salai, Chennai-600 002.
 - 5.The Managing Director,
Tamil Nadu State Transport
Corporation (Coimbatore) Ltd,
37, Mettupalayam Road,
Coimbatore-641 043.
- +1cc to Mr.Row & Reddy, Advocate, S.R.No.8311
+1cc to Mr.S.Rajeni Ramadass, Advocate, S.R.No.8958
+1cc to the Government Pleader, S.R.No.8788

W.P.No.26478 of 2018
and

W.M.P.Nos.30779 and 30784 of 2018

AK(CO)
GSP(06/03/2019)

WEB COPY