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W.P.No.21348 of 2019 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	26.10.2021
Pronounced On	22.04.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.Nos.21348, 12730 & 35085 of 2019

and **W.P.Nos.15566, 22409, 22466,**

22470 & 22472 of 2021

and

W.M.P.Nos.16489, 23653, 23654 of 2021

and **W.M.P.No.20638 of 2019**

(Through Video Conferencing)

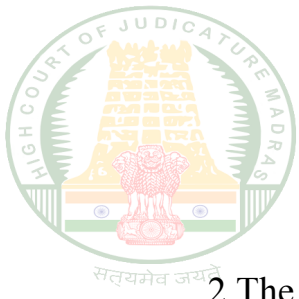
W.P.No.21348 of 2019

Federation of Retired Officers of
Transport Corporations,
Represented by its President
Mr.S.Renganathan,
127, Kottur Manor, Door No.12,
Fourth Main Road Extension,
Kottur Garden,
Chennai – 600 085.

... Petitioner

Vs.

1.Chief Secretary to Government,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.



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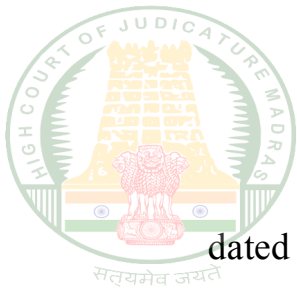
2.The Principal Secretary to Government,
Transport Department,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.

3.The Principal Secretary to Government,
Finance Department,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.

4.The Deputy Secretary to Government,
Transport Department,
Government of Tamil Nadu,
Fort St.George,
Chennai – 600 009
and
Ex-Officio Chairman,
Tamil Nadu State Transport Corporation,
Employees' Pension Fund Trust.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the first to fourth respondents to provide adequate funds to Tamil Nadu State Transport Corporation Employees Pension Fund Trust, and to implement of the revision of payment of pension to the members of the Petitioner Federation who retired between 01.09.1998 and 31.12.2015 based on the recommendation of Seventh Central Pay Commission with a multiplying factor of 2.57 as per G.O. (Ms) No.313, Finance (Pay Cell) Department, dated 25.10.2017 and G.O. (Ms) No.333, Finance (BPE) Department,



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dated 09.11.2017 with arrears and interest and continue to pay the revised pension without any interruption.

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For Petitioner in : Mr.A.R.L.Sundaresan, Senior Counsel
W.P.No.21348/2019 for Mr.J.James

For Petitioner in : Mr.V.Ajoy Khose
W.P.No.12730 /2019

For Petitioner in : Mr.S.T.Varadarajalu
W.P.No.35085/2019

For Petitioner in : Mr.D.Soundar Raj
W.P.Nos.15566,
22409/2021

For Petitioner in : Mr.P.Paramasivadoss
W.P.Nos.22466,
22470 &
22472/2021 ---

For State : Mr.L.S.M.Hasan Fizal,
Government Advocate

For Transport : Mr.G.Saravanakumar
Standing Counsel

COMMON ORDER

By this common order, all these Writ Petitions are being disposed.



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2. Broadly, three categories of retired employees from various State Transport Undertakings (STUs), who retired at different point of time, have filed these Writ Petitions either by themselves or through their associations and federations.

3. In these writ petitions, these petitioners seek implementation of the recommendation of the VII Central Pay Commission and for revision of their pension. Following Table captures the status of the respective petitioners:-

Table No.1

Sl. No.	W.P.Nos.	Designation	Date / Period of Retirement
1	21348 of 2019	Managerial Cadre Officers	Between 01.09.1998-31.03.2018
2A	12730 & 35085/2019	Administrative and Technical Supervisory Staff	Prior to 01.01.2016
2B	15566 & 22409/2021		
3	22466, 22470 & 22472/2021	Superintendent	Prior to 01.01.2016



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4. **W.P.No.21348 of 2019** [Sl.No.1 in Table No.1], has been filed

for the following reliefs:-

“For issuance of a writ of Mandamus, to direct the first to fourth respondents to provide adequate funds to Tamil Nadu State Transport Corporation Employees Pension Fund Trust and to implement of the revision of payment of pension to the members of petitioner Federation who retired between 01.09.1998 and 31.03.2015 based on the recommendation of Seventh Central Pay Commission with a multiplying factor of 2.57 as Per G.O.(MS).No.313 Finance Pay Cell department dated 25.10.2017 and G.O.(MS).No.333 Finance (BPE) Department dated 09.11.2017 with arrears and interest and continue to pay the revised pension without any interruption.”

5. The above W.P.No.21348 of 2019 has been filed by a Federation. The petitioner Federation represents the interests of retired the “Managerial Cadre Staffs” of various State Transport Undertakings (STUs) who retired between 01.09.1998 and 31.03.2018. The writ petition canvases interest of about 925 retired Managerial Cadre Staffs from 8 STUs in Tamil Nadu.



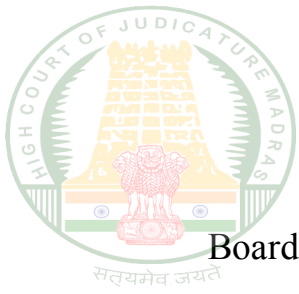
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WEB COPY 6. These petitioners had earlier filed Writ Petitions in W.P.Nos.10867 and 11572 of 2013. These Writ Petitions were filed for the following relief:-

Table No.2

<i>W.P.No.10867 of 2013</i>	<i>W.P.No.11572 of 2013</i>
<i>For issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order No.44/P2/TNSTC/EPFT/2012-818, dated 26.10.2012 issued by the respondent and quash the same and consequently direct the respondent to implement the revised pension extended to existing pre-2006 pensioners as ordered in G.O.Ms.No. 235, Finance (Pay Cell) Department, dated 01.06.2009 and Letter (Ms) No.194, Transport (D) Department, dated 11.08.2010 issued by the Government of Tamil Nadu and forthwith pay the revised pension payable to the petitioners in terms of those Governmental Orders with all attendant benefits and accumulated arrears arising therein with interest.</i>	<i>For issuance of a Writ of Mandamus, to direct the respondent to implement the revised pension extended to existing pre-2006 pensioners as ordered in G.O.Ms.No. 235, Finance (Pay Cell) Department, dated 01.06.2009 and Letter (Ms) No.194, Transport (D) Department, dated 11.08.2010 issued by the Government of Tamil Nadu and forthwith pay the revised pension payable to the petitioners in terms of those Governmental Orders with all attendant benefits and accumulated arrears arising therein with interest.</i>

7. This Court by its common order dated 18.11.2013, disposed W.P.Nos.10867 & 11572 of 2013. Writ Appeals came to be filed by the



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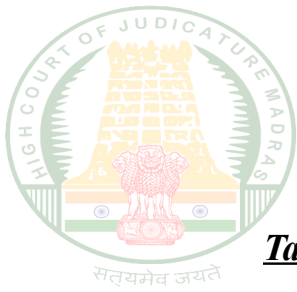
Board of Trustee of Tamil Nadu State Transport Corporation Employees

Pension Fund Trust, before the Division Bench of this Court in
W.A.Nos.399 and 400 of 2014.

8. The Division Bench of this Court, by its Common Judgment dated 05.08.2014, dismissed the said appeal. Further, S.L.P.Nos.27607 & 27608 of 2014 filed before the Hon'ble Supreme Court against the above order dated 05.08.2014 in W.A.Nos.399 & 400 of 2014, were also dismissed on 31.10.2014. I shall refer to these orders in the course of this order later.

9. **W.P.Nos.12730 & 35085 of 2019** and **W.P.Nos.15566 & 22409 of 2021** have been filed by "**Technical and Administrative Supervisory Staff**" of State Transport Undertaking who also retired prior to 01.01.2016.

10. W.P.Nos.12730 & 35085 of 2019 have been filed for the following reliefs:-

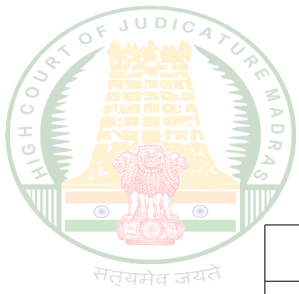


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Table No.3

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W.P.Nos.	Prayer
12730 of 2019	<i>For issuance of a writ of Mandamus, to direct the first respondent to issue an order for revision of pension for the retirees belonging to technical supervisory staffs and administrative supervisory staffs and the employees belonging to Asst.Manager Cadre as per the G.O.Ms.No.313, dated 25.10.2017 and G.O.Ms.No.333, dated 09.11.2017 who retired prior to 01.01.2016 also, in addition to the proposal already sent for the retirees belonging to the same category who retired between 01.01.2016 and 31.03.2018 and all the respondents to revise the monthly pension and other allowances to the members of our Association, including the second petitioner who have retired prior to 01.01.2016 as per G.O.Ms.No.313, dated 25.10.2017 and G.O.Ms.No.333 dated 09.11.2017 and also who have retired in between 01.01.2016 and 31.03.2018, as per G.O.Ms.No.303, Finance (Pay-Cell) Department, dated 11.10.2017 and G.O.Ms.No.134, Transport (D) Department dated 09.04.2018 and as per Circular in Letter No.23.1/P2/TNSTC EPFT/2018-2173 dated 09.05.2018, w.e.f. 01.01.2016 or from the date of actual retirement, Award Costs</i>
35085 of 2019	<i>Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, to direct the first respondent to issue order to the second respondent to revise the pension/family pension for the petitioners, as they retired before 01.01.2016, as per G.O.(Ms).No.313 dated 25.10.2017, G.O.(Ms).No.333 dated 09.11.2017, G.O.(Ms).No.134 Transport (D) Department dated 09.04.2018 and 2nd respondent</i>



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W.P.Nos.	Prayer
	<i>Circular No.23/P2/TNSTC EPFT/2018-2173 dated 09.05.2018.</i>

11. W.P.Nos. 12730 and 35018 of 2019 have also been filed by **"Technical Supervisory Staff and Administrative Staffs"** belonging to the Assistant Manager Cadre who have retired prior to 01.01.2016. These Writ Petitions have been filed to direct the first respondent to issue an order for revision of their pension.

12. W.P.No.15566 of 2021 has been filed for the following reliefs:-

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records of the fourth respondent herein in his impugned Letter in Lr.No.8885t – 2021/12/TNSTC-EPFT/2021-70 (1095) dated 09.06.2021 and quash the same and consequently direct the second and third respondents herein to direct the fourth respondent herein to revise the pension/family pension on par with the employees retired after 01.01.2016 and to revise the Dearness Allowance on par with the employees serving at present to the 23 retired members of the petitioner Association as per the members list enclosed herewith, retired from 6th respondent corporation herein and also to the second petitioner herein retired from fifth respondent corporation herein, who retired before 01.01.2016, on par with the employees retired after 01.01.2016 from fifth and sixth respondent



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corporation herein as per the Seventh Pay Commission recommendation.

13. By the impugned Letter in Lr.No.8885t – 2021/12/TNSTC-EPFT/2021-70 (1095) dated 09.06.2021, the fourth respondent in W.P.No.15566 of 2021 namely, Tamil Nadu State Transport Corporation Employees' Pension Fund Trust has rejected the request of the petitioner with the following observations:-

Table No.4

<i>Tamil</i>	<i>English</i>
<p>மேற்படி அரசு ஆணையின்படி ஓய்வூதியதாரர்களுக்கு ஓய்வூதியம் மாற்றம் செய்து செப்டம்பர்-2019 மாதம் முதல் நடைமுறைப்படுத்தப்பட்டு உயர்த்தப்பட்ட (Revised Pension) ஓய்வூதியம் வழங்கப்பட்டு வருகிறது. மேலும், பணியில் உள்ள பணியாளர்களுக்கு ஊதிய ஒப்பந்தம் / ஊதியக்குழு பரிந்துரையின் படி ஊதியம் உயர்த்தப்பட்டு வழங்கப்படும் போது அதேபோல் ஓய்வூதியம் பெற்றுவரும் ஓய்வூதியதாரர்களுக்கு ஓய்வூதியம் மற்றும் அகவிலைபடி மாற்றம் செய்து வழங்குவது குறித்து தமிழ்நாடு அரசு போக்குவரத்துக் கழக ஊழியர்கள் ஓய்வூதிய நிதி விதிகளில் வழிவகையில்லை என்பதால் தங்களது கோரிக்கையினை நடைமுறைப்படுத்திட இயலாது.</p> <p>மேலும் தற்போது தமிழ்நாடு அரசு போக்குவரத்துக் கழக ஊழியர்கள் ஓய்வூதிய நிதி பொறுப்பாட்சியில்</p>	<p>As per the above Government Order, the pension has been changed and the increased pension has been implemented with effect from September-2019. Further, the Tamil Nadu State Transport Corporation (TSTC) Employees Pension Fund Trust is unable to implement their request as there is no provision in the pension fund rules regarding the pension / pay recommendation for the existing employees to be increased.</p> <p>In addition, at present, the Tamil Nadu State Transport Corporation (TSTC) employees' pension fund liabilities are being paid to the students</p>



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<i>Tamil</i>	<i>English</i>
<p>ஓய்வூதியம் வழங்குவதற்கே நிதி ஆதாரம் இல்லாமல் அரசிடமிருந்து போக்குவரத்துக் கழகத்திற்கு வழங்கப்படும் மாணவர்களுக்கு இலவச பயணக்கட்டணத்திற்கான மானியம் மற்றும் நிதி பற்றாக்குறைக்கு போக்குவரத்துக் கழகங்கள் வங்கிகளிடமிருந்து கடன் பெற்று வழங்கும் தொகையினை கொண்டு தான் ஓய்வூதியம் வழங்கப்பட்டு வருகிறது.</p> <p>நிதி பொறுப்பாட்சியில் நிதி மூலதனம் ஏதும் இல்லை. மேலும் வருங்கால வைப்பு நிதி நிர்வாக பங்கு தொகையைவிட கூடுதலாக ஓய்வூதியம் வழங்கப்பட்டு வருவதால் போக்குவரத்துக் கழகங்களுக்கு வழங்க வேண்டிய மாணவர்களுக்கு இலவச பயணக்கட்டணத்திற்கான மானியத்தினை ஓய்வூதியத்திற்கு வேண்டி, அரசு மானியத்தினை ஓய்வூதியத்திற்கு வேண்டி, அரசு மானியத்தினை ஓய்வூதிய நிதி பொறுப்பாட்சிக்கு வழங்கி வருகிறது. மேலும் 31.03.2020 காப்பீட்டாளர் (Actuary Valuation) சான்று படி ரூ.24,623.80 பற்றாக்குறை உள்ளது என சான்றளித்தார். இவ்வாரான சூழ்நிலையில் பிரதி மாதம் 5-ம் தேதி ஓய்வூதியம் வழங்கப்பட்டு வருகிறது என்பதை இதன் மூலம் தெரிவித்துக் கொள்ளப்படுகிறது.</p>	<p>who are being provided to the Transport Corporation by the Government without any financial source, and the pension is being paid with the loan amount provided by the Transport Corporation Banks for the free cash subsidy and the shortage of funds.</p> <p>There is no financial capital in financial responsibility. The government has also been providing a subsidy to the Pension Fund Liability, in lieu of a provision for pensions to be paid to transport corporations as the provident fund is providing pensions in excess of the administrative share. 31.03.2020 The Insurer (Actuary Valuation) has certified that there is a deficit of Rs.24,623.80. In this situation, it is informed that the pension is being paid on the 5th of every month.</p>

14. W.P.No.22409 of 2021 has been filed for the following reliefs:-

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records



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of the fifth respondent herein in his impugned reply in Lr.No.1739-2019/Law -2 /Tha.A.Poo.Ka.Pa.O.Ne.Poo / 2020 dated 04.08.2021 and quash the same and consequently direct the fifth respondent herein to revise the pension of the petitioners herein on par with the pensioners retired after 01.01.2016 and consequently pay the arrears of pension in light of the G.O.(Ms).No.313 Finance (Pay Cell) Department dated 25.10.2017 and Rule 2(W) 20-A and 21(a) of the Tamil Nadu State Transport Corporation Employees Pension Fund Rules and in the light of the orders passed by the Division Bench of this Hon'ble Court in W.A.Nos.399 and 400 of 2014 dated 05.08.2014, in the similar cases, as confirmed by the Hon'ble Supreme Court of India in Civil Appeal No.10857 of 2016 on 11.07.2019.

15. By the impugned reply dated 04.08.2021 bearing reference Lr.No.1739-2019/Law -2/Tha.A.Poo.Ka.Pa.O.Ne.Poo / 2020, the fifth respondent in W.P.No.22409 of 2021 has rejected the request of the petitioners with the following observations:-

Table No.4

<i>Tamil</i>	<i>English</i>
தங்களால் சென்னை உயர்நீதிமன்றத்தில் தாக்க செய்யப்பட்ட பார்வை 1ல் கண்டுள்ள ரிட் வழக்கில் அரசு ஆணை எண்.313, நாள்:25.10.2017, அரசு ஆணை	According to the Writ Petition filed before the Hon'ble High Court it is mentioned as Government Order No: 313, Date: 25.10.2017, Government



Tamil	English
<p>எண்:333, நாள்:09.11.2017 மற்றும் அரசு ஆணை எண்:134, போக்குவரத்து (டி) துறை, நாள்:09.04.2018-ன்படி 7வது ஊதியக்குழு பரிந்துரையின்படி ஓய்வூதியம் மாற்றம் செய்து வழங்கிட கோரியுள்ளத்தில் உயர்நீதிமன்றம் கீழ்க்கண்டவாறு ஆணையிட்டுள்ளது.</p> <p>".... Accordingly, the writ petition stands disposed of with a direction, directing the respondents 3 and 4 to consider the petitioners' representations submitted on various dates seeking revision of pension as per the Recommendations of the VII Pay Commission and pass appropriate orders on merits and in accordance with law in the light of the judicial precedents relied on by the petitioners, within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision to the petitioners. "</p> <p>தங்களது 24.04.2021 தேதியிட்ட மனு நன்கு பரிசீலிக்கப்பட்டது. அரசு ஆணை எண்:134, நாள்:09.04.2018, போக்குவரத்துக் கழகத்தில் பணியில் உள்ள பணியாளர்களுக்கு மட்டும் 7வது ஊதியக்குழு பரிந்துரையினை நடைமுறைப்படுத்திட ஆணையிட்டுள்ளது. அதன்படி அரசு ஆணை எண்: 134ஐ அந்தந்த</p>	<p>Order No: 333, Date: 09.11.2017 and Government Order No: 134 as per Department of Transport (D) Date: 09.04.2018 As per the recommendation of the 7th Pay Commission. The High Court has directed as mentioned below ;</p> <p>".... Accordingly, the writ petition stands disposed of with a direction, directing the respondents 3 and 4 to consider the petitioners' representations submitted on various dates seeking revision of pension as per the Recommendations of the VII Pay Commission and pass appropriate orders on merits and in accordance with law in the light of the judicial precedents relied on by the petitioners, within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision to the petitioners. "</p> <p>Their petition dated 24.04.2021 was well considered. Government Order No: 134, dated: 09.04.2018, has directed to implement the recommendation for 7th pay only for the employees working in the Transport Corporation. Accordingly, Government Order No. 134 approved by the Board of the respective</p>



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Tamil	English
<p>போக்குவரத்துக் கழக வாரியக்குழுவில் ஒப்புதல் பெற்றுள்ளது ஓய்வூதியதாரர்களுக்கு பொருந்தாது.</p> <p>மேலும் அரசு ஆணை எண்:142, நாள்:26.10.2019-ன்படி உரிய நடவடிக்கை எடுத்து தகுதியுடைய ஓய்வூதியதாரர்களுக்கு ஓய்வூதியம் மாற்றம் செய்து செப்டம்பர்-2019 முதல் வழங்கப்பட்டு வருகிறது. தாங்கள் அனைவரும் 01.01.2016க்கு முன்னரே ஓய்வு பெற்றதால் 7வது ஊதியக்குழு பரிந்துரையின்படி தங்களுக்கு ஓய்வூதியம் மாற்றம் செய்து வழங்கிட வழிவகையில்லை என்பதை தெரிவித்துக் கொள்ளப்படுகிறது.</p>	<p>Transport Corporation does not apply to pensioners.</p> <p>Further, as per Government Order No: 142, dated: 26.08.2019, pensions have been transferred to eligible pensioners from September 2019 onwards. As all of them have retired before 01.01.2016, they are informed that there is no way to change their pensions as per the recommendation of the 7th Pay Commission.</p>

16. W.P.Nos.22466, 22470 & 22472 of 2021, have been filed by the retired "Superintendents" of State Transport Undertaking who retired after to 01.01.2016. The petitioners retired from services on the following dates:-

Table No.5

Sl. No.	W.No.	Name	Date of Retirement
1	22466 of 2021	Akkameni Devi	31.05.2017
2	22470 of 2021	P.N.Umamehesh-wari	30.06.2017
3	22472 of 2021	D.Dhavaselvi	28.02.2018



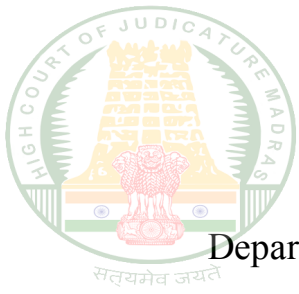
W.P.No.21348 of 2019 etc. batch

17. The petitioners in the above mentioned Writ Petition seek for the following reliefs:-

Table No.6

W.P.Nos.	Prayer
22466 of 2021	<i>Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondents to implement the benefits of G.O.Ms.No.134 Transport (D) department dated 09.04.2018, G.O.Ms.No.313 Finance (Pension) Department dated 25.10.2017 and also to implement G.O.Ms.No.142 Transport (E) department dated 11.04.2018, by revising the pay scales of the petitioner by adopting the factor multiplier of 2.57 enumerated in the above Government orders and to enhance the rate of pay scale and recalculate the terminal benefits and pension paid and which were passed in pursuance to the recommendation of the 7th Pay Commission and to direct the respondents to pay the arrears of pension, differential terminal benefits from the date of retirement which would be appropriate along with the interest at the rate of 18% per annum.</i>
22470 of 2021	
22472 of 2021	

18. The common grievance of these petitioners in W.P.Nos.22466, 22470 & 22472 of 2021 is that the benefits of G.O.Ms.No.134, Transport Department, dated 09.04.2018, G.O.Ms.No.313, Finance [Pension]



W.P.No.21348 of 2019 etc. batch

Department, dated 25.10.2017 and G.O.Ms.No.142, Transport (E)

Department, dated 11.04.2018 were not implemented for revising the pension of these petitioners by adopting the multiple factor of 2.57 enumerated in the Government Orders to enhance pay scale and to re-calculate the terminal benefits and pension which were implemented pursuant to the recommendation of the VII Pay Commission and to pay the arrears together with interest at 18% per annum.

19. For understanding the scope of the dispute in these Writ petitions, it will be useful to refer to a brief history of the Transport services of the respondent State Transport Undertakings.

20. The Government of Tamil Nadu operated buses through the Tamil Nadu State Transport Department till 1975. All the staffs and workers of the Tamil Nadu State Transport Department were then the Government Employees.

21. After 1975, the Tamil Nadu State Transport Department was wound up. The Government created separate State Transport



W.P.No.21348 of 2019 etc. batch

Corporations for the operation of buses from 01.05.1975.

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22. Prior to 01.04.1978, the Pay scales and allowances of various employees of State Transport Undertakings (STUs) were not uniform in equal posts. Therefore, the Government of Tamil Nadu issued G.O.(Ms).No.767, dated 03.07.1980 and adopted the pay scale equivalent to Government Employees as per the Third Tamil Nadu Pay Commission in G.O.Ms.No.1050, dated 05.10.1978 with effect from 01.04.1978 for the Managerial Cadre Officers.

23. Before 1995, Employees of STUs were eligible for the pension under Employees Family Pension Scheme, 1971. Later Employees' Pension Scheme 1995 notified under the EPF Act and was implemented and extended to all the Transport Employees with effect from 16.11.1995.

24. Later, the Tamil Nadu State Transport Corporation Pension Fund was formulated for the benefit of the Employees with effect from 01.09.1998 as per Wage Settlement of 1998.



W.P.No.21348 of 2019 etc. batch

25. With effect from 01.09.1998 vide G.O.(Ms) No.157, Labour and Employment Department, dated 27.09.2000, the Government of Tamil Nadu excluded the Tamil Nadu State Transport Undertakings from the purview of Employees Provident Fund and Miscellaneous Provisions Act, 1952.

26. In lieu of the Employees' Pension Scheme, 1995, a separate and independent pension scheme, namely Tamil Nadu State Transport Corporation Employees' Pension Scheme was introduced and implemented with effect from 01.09.1998.

27. All the employees belonging to all categories and cadres have been getting pension under the above Tamil Nadu State Transport Corporation Employees' Pension Scheme on and from 01.09.1998.

28. A new pension scheme under Section 12(3) of the Industrial Disputes Act 1947 was worked out on 13.02.1999 for the "workman". It was also extended to the Managerial Cadre Officers of STU.

29. Earlier, as per Paragraph No.18 of the Memorandum of



W.P.No.21348 of 2019 etc. batch

Settlement dated 13.02.1999 signed under Section 12(3) of the Industrial Dispute Act, 1947 between the representative of the Managements of the State Transport Corporation and the Federation of the Central Trade Unions in the presence of the then Minister of Transport, a new pension scheme was framed for the employees of the Transport Corporation and the draft was to be sent to the Regional Provident Fund Commissioner for getting exemption. It also stated that Employees recruited after 01.09.1998, were to come under the new Pension Scheme.

30. As per Paragraph No.19 of the Scheme, the employees already on the rolls of the State Transport Undertaking as on 31.08.1998 had the option of joining the new pension scheme or continue to be a member of the existing Employees Contributory Provident Fund Scheme.

31. Pursuant to the said agreement, G.O.(Ms).No.135, dated 15.12.2000 was issued. Employees and pensioners of STUs of Tamil Nadu were to come under Tamil Nadu State Transport Corporations Employees Pension Fund Trust “TNSTC EPFT” w.e.f. 01.09.1998.



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32. The Trust Administrator implemented the orders of the Government Letters and extended the revision of pension of pensioners who retired after 2006. However, it was not extended to pensioners who retired prior to 2006, even though, both the above Letters were issued in August 2010.

33. The retired Managerial Cadre Employees were getting pension and gratuity as per the pay fixed in terms of the VI Tamil Nadu Pay Commission's recommendations with effect from 01.01.2006. However, the Managerial Cadre Employees who retired prior to 01.01.2006 were not given the benefit of revised pension from 01.01.2006.

34. On 01.01.1996, the V Central Pay Commission came into effect. With effect from 01.09.1998, all the employees of STUs of Tamil Nadu were given salary on par with their counterparts in the State Government.

35. The Government of Tamil Nadu vide Government Letter No.27762/D/99-8 Transport Department, dated 15.12.2000 directed the State Express Transport Corporation and the Tamil Nadu State Transport



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Corporation as follows:-

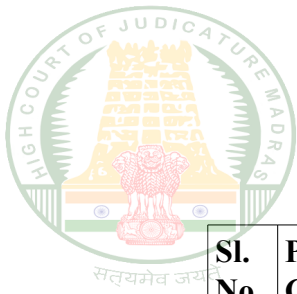
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"2 (b) – In respect of pensioners who were drawing State Government Scales and Dearness Allowances at the time of exit from service, the Dearness Allowances may be paid at the rates applicable to State Government Pensioners. Already, there is a clear provision in Rule 20-A of Tamil Nadu State Transport Corporation Employees' Pension Fund Rules which states that in addition to basic pension, pensioners are eligible for nominal Dearness Allowances at the rates that may be determined by the Government of Tamil Nadu. The above system is followed without any deviation. The same system will be adopted in future also."

36. The above letter was issued with the concurrence of the Finance Department vide its U.O.No.609/ADS (PK)/2000, dated 15.12.2000. Later, the salaries were revised with the implementation of the Sixth Central Pay Commission with effect from 01.01.2006.

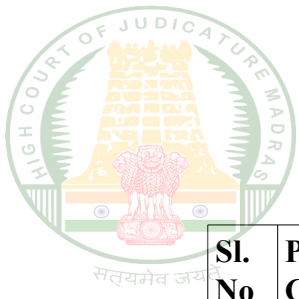
37. Details of various Pay Commissions and correspondent G.Os. relevant for these cases are detailed below:-

Sl. No	Pay Commission	State Government Employees in Service	Managerial Cadre Officers of STUs in service	Made applicable to State Government Pensioners	Made applicable to Boards and PSUs Pensioners
1.	Third Tamil	G.O.(Ms)No.1	G.O.(Ms).No.767	-	-



W.P.No.21348 of 2019 etc. batch

Sl. No	Pay Commission	State Government Employees in Service	Managerial Cadre Officers of STUs in service	Made applicable to State Government Pensioners	Made applicable to Boards and PSUs Pensioners
	Nadu Pay Commission	050 Finance Department dated 05.10.1978 (w.e.f. 01.04.1978)	Transport Department dated 03.07.1980. (w.e.f.01.04.1978)		
3.	Fifth Central Pay Commission	G.O.(Ms).No.162 Finance Department dated 13.04.1998 (w.e.f.01.01.1996)	G.O(Ms.)No.201 Transport Department dated 16.10.1998 (w.e.f.01.01.1996)	-	-
4.	Sixth Central Pay Commission	GO(Ms)No.234 Finance Department dated 01.06.2009 w.e.f. 01.01.2006	GO(MS).No.63 Transport(D) Department dated 05.02.2010 w.e.f. 01.01.2006	GO(Ms)No.235 Finance (Pay Cell) Department dated 01.06.2009 w.e.f. 01.01.2006	GO(MS)No.280 Finance (BPE) Department dated 01.07.2009 w.e.f. 01.01.2006
		GO(Ms)No.235 Finance (Pay Cell) Department dated 01.06.2009 w.e.f. 01.01.2006	Letter(MS)No.194 Transport(D)Dept dated 11.08.2010 w.e.f. 01.01.2006 for Pre-2006 Pensioners. Letter(Ms).No.206 Transport (D) Dept dated 25.08.2010 w.e.f. 01.01.2006 for Post-2006 pensioners.		GO(Ms)No.235 Finance (Pay Cell) Department dated 01.06.2009 w.e.f. 01.01.2006



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Sl. No	Pay Commission	State Government Employees in Service	Managerial Cadre Officers of STUs in service	Made applicable to State Government Pensioners	Made applicable to Boards and PSUs Pensioners
5.	7th Central Pay Commission	G.O.(Ms).No. 303 Finance Department dated 11.10.2017 w.e.f. 01.01.2016	G.O.(Ms). No.134 Transport Department dated 09.04.2018 w.e.f. 01.01.2016	G.O.Ms.No. 313 Finance Department dated 25.10.2017 w.e.f. 01.01.2016	G.O.Ms.No. 333 Finance Department dated 09.11.2017 w.e.f. 01.01.2016
					G.O. (Ms) No.142, Transport (E) Department, dated 26.08.2019

38. G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2006 was issued for recommendation of the Official Committee on revision of scales of pay and allowances etc.

39. Meanwhile, G.O.Ms.No.142, Transport (C1) Department, dated 21.08.2008 was issued. G.O.Ms.No.142, Transport (C1) Department, dated 21.08.2008 describes as follows:-



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G.O.Ms.No.142, Transport(D) Department, dated 21.08.2008

Tamil	English
<p>அரசு போக்குவரத்துக் கழக தொழிற்நுட்ப மற்றும் நிர்வாக மேற்பார்வையாளர்களின் ஊதிய விகிதம் 31.08.1998 வரை தொழிற்சங்கராஜ சட்டம் 12(3)-இன்படி தொழிலாளர் சங்கங்களின் கூட்டமைப்பு மற்றும் போக்குவரத்துக் கழகங்களின் நிர்வாகத்தின் பேச்சுவார்த்தை மூலம் மாற்றி அமைக்கப்பட்டு வந்தது. தொழிற்சங்க பேரவைகளுடன் ஊதிய ஒப்பந்த பேச்சுவார்த்தை நடத்தி 13-02-1999 அன்று ஒப்பந்தம் கையெழுத்தான பிறகு போக்குவரத்துக் கழக தொழிற்நுட்ப மேற்பார்வையாளர்களின் கோரிக்கையின் அடிப்படையில் மேலே இரண்டாவதாக படிக்கப்பட்ட அரசாணையில் அவர்களுக்க ஊதிய விகிதம் 01-01-1999 முதல் மாற்றியமைக்கப்பட்டு காலமுறை ஊதிய மாற்றம் வழங்க ஆணையிடப்பட்டது. இதே போன்று நிர்வாக மேற்பார்வையாளர்களுக்கும் உயர்நீதிமன்ற ஆணைப்படி ஊதிய விகிதம் மாற்றியமைக்கப்பட்டு மேலே மூன்றாவதாக படிக்கப்பட்ட அரசாணையில் ஆணை வெளியிடப்பட்டது.</p> <p>2. அரசுப் போக்குவரத்துக் கழக தொழிலாளர்களுக்கு ஊதிய ஒப்பந்தம் 31-08-2005-இல் கையெழுத்தானதைத் தொடர்ந்து தொழிற்நுட்ப மற்றும் நிர்வாக மேற்பார்வையாளர்களின் ஊதிய விகிதத்தை பரிசீலனை செய்வதற்கென 7 பேர் கொண்ட ஒரு குழு அமைக்கப்பட்டு அக்குழுவின் பரிந்துரைகளின் அடிப்படையில் கீழ்க்கண்ட ஊதிய நிர்ணயம் செய்யப்பட்டு 01-01-2004 முதல் நடைமுறைப்படுத்த மேலே நான்காவதாக படிக்கப்பட்ட அரசாணையில் ஆணை வெளியிடப்பட்டது.</p>	<p>The pay scale of technical and administrative supervisors of the State Transport Corporation was amended by negotiation with the Federation of Trade Unions and the management of the Transport Corporations under section 12 (3) of the Trade Union Act up to 31-08-1998. After negotiating the wage agreement with the trade union assemblies and signing the agreement on 13-02-1999, at the request of the Technical Supervisors of the Transport Corporation, in the Second Second Reading Order, the pay scale for them was changed from 01-01-1999 and ordered to provide periodic pay change. Similarly, the pay scale for executive supervisors has been revised as per the High Court order and the order was issued in the third reading above.</p> <p>2. Following the signing of the Wage Contract for Public Transport Corporation Workers on 31-08-2005, a Committee of 7 persons was constituted to review the pay scale of the Technical and Administrative Supervisors. Based on the recommendation of the said Committee, the following pay scale was determined to effect from 01.01.2004 and published in G.O. fourth read above.</p>



W.P.No.21348 of 2019 etc. batch

G.O.Ms.No.142, Transport(D) Department, dated 21.08.2008

பதவி	பழைய சம்பள விகிதம் (ரூபாய்)	மாற்றியமைக்கப்பட்ட சம்பள விகிதம் (ரூபாய்)
இளநிலை பொறியாளர் / கண்காளிப்பாளர்	4500-125-7000	5400-125-7900
உதவிப் பொறியாளர் / முதுநிலை கண்காளிப்பாளர்	5000-150-8000	5900-150-8900
முதுநிலை உதவிப் பொறியாளர் / பிரிவு அலுவலர்	5900-200-9900	6800-200-10800
தேர்வநிலை உதவிப் பொறியாளர் / தேர்வநிலை பிரிவு அலுவலர்	8000-275-13500	8000-275-13500

Post	Old Pay Scale (Rs.)	Revised Pay Scale (Rs.)
Junior Engineer / Superintendent	4500-125-7000	5400-125-7900
Assistant Engineer / Senior Superintendent	5000-150-8000	5900-150-8900
Senior Assistant Engineer / Section Officer	5900-200-9900	6800-200-10800
Selection Grade Assistant Engineer / Selection Grad Section Officer	8000-275-13500	8000-275-13500

3. தற்போது மீண்டும் போக்குவரத்துக் கழக ஊழியர்களுக்கு புதிய ஊதிய ஒப்பந்தம் 06-02-2008-ல் ஏற்படுத்தப்பட்டு புதிய ஊதிய விகிதங்கள் 01-09-2007 முதல் நடைமுறைப்படுத்தப்பட்டு வருவதால், போக்குவரத்துக் கழக தொழிற்நுட்ப மற்றும் நிர்வாக மேற்பார்வையாளர்களுக்கும் ஊதிய விகிதங்களை திருத்தி அமைக்க வேண்டி அரசுக்கு கோரிக்கை மனுக்கள் சமர்ப்பித்ததன் அடிப்படையில் அதை பரிசீலனை செய்வதற்கென நிதித் துறையின் கூடுதல் இயக்குநர் உள்ளடக்கிய மாநகர் போக்குவரத்துக் கழக நிர்வாக இயக்குநரை ஒருங்கிணைப்பாளராக கொண்ட 8 பேர் கொண்ட ஒரு குழு அமைக்கப்பட்டது. அக்குழு, அரசு போக்குவரத்துக் கழக தொழிற்நுட்ப மற்றும் நிர்வாக மேற்பார்வையாளர்களின் கோரிக்கை மனுக்களை பரிசீலனை செய்து அரசுக்கு பரிந்துரைத்ததன் அடிப்படையில் அரசு, குழுவின் பரிந்துரையை பரிசீலனை செய்து கீழ்க்கண்டவாறு ஊதிய விகிதங்கள் திருத்தி அமைக்கப்பட ஆணையிடுகின்றது:-

1. அரசு துறையில் உள்ளது போல

3. Now that the new wage agreement for Transport Corporation workers has been re-established on 06-02-2008 and the new wage rates are being implemented with effect from 01-09-2007, it will be funded to review the petitions submitted to the Government for revision of the wage rates for the Technical and Administrative Supervisors of the Transport Corporation. A committee of 8 persons comprising the Executive Director of the Municipal Transport Corporation, comprising the Additional Director of the Department, has been constituted.

1. Salary revision for Bachelor of Engineers (J.E) and Assistant Engineers (A.E) in qualified Transport Corporations as in Public Sector i.e. in Public Sector.



W.P.No.21348 of 2019 etc. batch

G.O.Ms.No.142, Transport(D) Department, dated 21.08.2008

அதாவது பொதுப்பணித்துறையில் உள்ளது போல தகுதிவாய்ந்த போக்குவரத்துக் கழகங்களில் உள்ள இளநிலைப் பொறியாளர்கள் (J.E.) மற்றும் உதவிப் பொறியாளர்களுக்கு (A.E.) ஊதியம் திருத்தி அமைக்கப்படுகிறது.

- போக்குவரத்துக் கழக இளநிலை / உதவிப் பொறியாளர்களைப் போலவே சம்பளம் பெறும் (similar scale of pay) தகுதிவாய்ந்த போக்குவரத்துக் கழக நிர்வாக மேற்பார்வையாளர்களுக்கும் மேலே 1-ல் குறிப்பிட்டது போல் ஊதியம் திருத்தி அமைக்கப்படுகிறது.

- தற்போது சம்பள விகிதமும் மாற்றியமைக்க பரிந்துரைக்கும் சம்பள விகிதமும் கீழ்க்கண்டவாறு:-

தற்போதுள்ள பதவி	தற்போதுள்ள சம்பள விகிதம் (ரூபாய்)	அரசு துறைகளில் வழங்கும் சம்பள விகிதம் (ரூபாய்)
இளநிலை பொறியாளர் / கண்காணிப்பாளர்	5400-125-7900	5500-175-9000 பத்து வருடங்கள்
உதவிப் பொறியாளர் / முதுநிலை கண்காணிப்பாளர்	5900-150-8900	6500-200-10500 பத்து வருடங்கள்
முதுநிலை உதவிப் பொறியாளர் / பிரிவு அலுவலர்	6800-200-10800	8000-275-14050 பத்து வருடங்கள்
தேர்வுநிலை உதவிப் பொறியாளர் / தேர்வுநிலை பிரிவு அலுவலர்	8000-275-13500	9100-275-14050

- தற்போது அரசு ஊழியர்களுக்கு

- The salary scale is adjusted as mentioned above for qualified Transport Corporation Executive Supervisors who are paid the same scale (pay) as Transport Corporation Bachelor / Assistant Engineers.

- The current pay scale and the pay scale recommended for change are as follows:

Current Post	Current Pay Scale (Rs.)	Pay Scale given in the Government Departments (Rs.)
Junior Engineer / Superintendent	5400-125-7900	5500-175-9000 Ten Years
Assistant Engineer / Senior Superintendent	5900-150-8900	6500-200-10500 Ten Years
Senior Assistant Engineer / Section Officer	6800-200-10800	8000-275-14050 Ten Years
Selection Grade Assistant Engineer / Selection Grade Section Officer	8000-275-13500	9100-275-14050

- The revised pay scale for the Technical and Administrative Supervisors of the Transport Corporation will be implemented



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G.O.Ms.No.142, Transport(D) Department, dated 21.08.2008

- | | |
|--|---|
| <p>வழங்கப்பட்டு வரும் ஊதிய விகிதமுறைகளைப் போலவே போக்குவரத்துக் கழக தொழிற்நுட்ப மற்றும் நிர்வாக மேற்பார்வையாளர்களுக்கு திருத்திய ஊதியம் 01-01-2008 முதல் முன் தேதியிட்டு நடைமுறைப்படுத்தப்படும்.</p> <p>5. அகவிலைப்படி, வீட்டு வாடகைப்படி, நகர ஈட்டுப்படி, போன்ற படிக்களை அரசு ஊழியர்களுக்கு வழங்குவதைப்போல வழங்கப்படும்.</p> <p>6. போக்குவரத்துக் கழக தொழிற்நுட்ப மற்றும் நிர்வாக மேற்பார்வையாளர்களுக்கு தற்போது வழங்கப்பட்டு வரும் வருடாந்திர போனஸ், மாற்றுப்படி, சீருடைப்படி, தையற்கூலிப்படி, சலவைப்படி, வருகைப்படி, கல்வி உதவித்தொகை, மருத்துவப்படி போன்ற சலுகைகள் இரத்து செய்யப்படுகிறது.</p> <p>7. இதுவரை நடைமுறையில் இருந்த காலமுறை பதவி உயர்வு இரத்து செய்யப்படுகிறது.</p> <p>8. மாற்றியமைக்கப்படும் புதிய ஊதிய விகிதத்தின்படி ஊதிய நிர்ணயம் (Pay Fixation) செய்யும்பொழுது அரசு ஆணை (2D) எண்:62, போக்குவரத்து, நாள் 23.09.1996-ல் குறிப்பிடப்பட்டுள்ள வழிமுறைகள் பின்பற்றப்பட வேண்டும்.</p> | <p>with effect from 01-01-2008 in the same manner as the pay scale currently being paid to Government employees.</p> <p>5. Steps such as invoice, house rent, city return, etc. will be provided as provided to government employees.</p> <p>6. The annual bonus currently being offered to the Technical and Administrative Supervisors of the Transport Corporation, such as concessions, uniforms, tailoring, laundry, attendance, scholarships and medical allowances, will be canceled.</p> <p>7. The periodic promotion which has been in force till now is canceled.</p> <p>8. Government Order (2D) No.62, Transport, dated 23.09.1996 should follow the guidelines while making Pay Fixation as per the new pay scale to be adjusted</p> |
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40. G.O.Ms.No.235, Finance (Pay Cell) Department, dated 01.06.2009 was issued to increase in pension at 40% of basic pension to all existing pensioners.



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WEB COPY 41. Vide G.O.Ms.No.250, Finance (BPE) Department, dated 17.06.2009, the pay revision granted to the Government Servant as per G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009, was extended to all State Public Section undertakings and Boards by the Government of Tamil Nadu.

42. Based on the Central Sixth Pay Commission, the State Government constituted an Official Committee to revise the Scales of Pay and allowances to the State Government Employees. As per the recommendation of the Official Committee, revised pay structure was implemented to the State Government Employees. The same benefit was extended to the Technical and Administrative Supervisors by G.O.Ms.No.250, Finance (BPE) Department, dated 17.06.2009 with effect from the date of issuance of the order.

43. The Government of Tamil Nadu vide G.O.Ms.No.63, Transport (D) Department, dated 05.02.2010, extended the revised pay rules to all the Transport Employees belonging to Managerial Cadre Officers with



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effect from 01.01.2006 and belonging to the Technical and Administrative Supervisory Cadre Employees with effect from 17.06.2009 with all monetary benefits.

44. Thus, W.P.No.11572 of 2013 & W.P.No.10867 of 2013 came to be filed before the this Court, wherein as mentioned above elsewhere. It was held that, as the Government have already accepted the request made by the petitioner and therefore it is not fair on the respondent to keep the matter pending.

45. Further, the said benefit had already been given to the persons who retired after 01.06.2006. Therefore, the respondents were directed to implement the revised pension extended to existing pre-2006 pensioners as ordered in G.O.Ms.No.235, Finance (Pay Cell) Department, dated 01.06.2009 and Letter (Ms)No.194, Transport (D) Department, dated 11.08.2010 issued by Government of Tamil Nadu, and pay the revised pension payable to the pensioners in term of these Government orders within a period of four weeks from the date of a receipt of a copy of the order. The respondents were also directed to settle the entire arrears



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within a period of eight weeks thereafter.

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46. Since the respondent had not implemented the benefit to the petitioners therein even after the issuance of Government Letter(Ms) No.194, Transport (D) Department, dated 11.08.2010, it was held that the petitioners therein were entitled to get Rs.10,000/- each towards costs.

47. This Court by its common order dated 18.11.2013, disposed W.P.Nos.10867 & 11572 of 2013 filed by the petitioner in W.P.No.21348 of 2019 [Sl.No.1 in Table No.1] with the following observations:-

7. It is pertinent to note here that the said benefit has already been extended to the pensioners, who were retired on or after 01.1.2006, which is evident from the Government Letter (Ms) No.206, Transport (D) Department, Secretary to Government Administrator, TNSTC Employees Pension Fund Trust, dated 25.8.2010.

8. The grievance of the petitioners is that though the Government extended the benefit to the petitioners as ordered in G.O.Ms.No.235, Finance (Pay Cell) Department, dated 01.6.2009 and Letter (Ms) No.194, Transport (D) Department, dated 11.8.2010 issued by the Government of Tamil Nadu, the respondent has



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not implemented the same to the petitioners.

9. Since the Government have already accepted the request made by the petitioners, it is not fair on the respondent to keep the matter pending. Further, the said benefit has already been given to the person, who were retired subsequent to 01.1.2006. Therefore, the respondent is directed to implement the revised pension extended to existing pre-2006 pensioners as ordered in G.O.Ms.No.235, Finance (Pay Cell) Department, dated 01.6.2009 and Letter (Ms) No.194, Transport (D) Department, dated 11.8.2010 issued by the Government of Tamil Nadu, and pay the revised pension payable to the petitioners in terms of those Government Orders within a period of four weeks from the date of receipt of a copy of this order. The respondent is also directed to settle the entire arrears within a period of eight weeks thereafter. Since the respondent has not implemented the benefit to the petitioners even after the issuance of Government Letter (Ms) No.194, Transport (D) Department, dated 11.8.2010, the petitioners are entitled to get Rs.10,000/- each towards costs. However, considering the circumstances of the case, this Court is not imposing costs.

10. The writ petitions are disposed of with the above directions. Consequently, connected miscellaneous petitions are closed.

48. As mentioned above in the beginning, the decision of the learned Single Judge was challenged in W.A.Nos.399 and 400 of 2014.

The Writ Appeals were dismissed vide order dated 05.08.2014. The



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Division Bench confirmed the orders of the Single Judge by observing that it was discriminatory to introduce a benefit retrospectively fixing a cut off date arbitrarily, thereby, dividing a single class of pensioners into two groups. When an additional benefit was given to similarly placed persons, it was held same cannot be denied by creating an artificial cut-off date.

49. The Court referred to the following decision as of the Hon'ble Supreme Court in **D.S. Nakara Vs. Union of India**, 1983 (1) SCC 305 and the following cases:-

- i. **Krishna Kumar Vs. Union of India**, 1990 (4) SCC 207.
- ii. **Indian Ex-Service League Vs. Union of India**, 1991 (2) SCC 104.
- iii. **V. Kasthuri Vs. M.D., State Bank of India**, 1998 (8) SCC 30.
- iv. **Union of India Vs. Dr. Vijayapurapu Subbayamma**, 2000 (7) SCC 662.

50. The Division Bench of this Court observed as under:-

"When an additional benefit has been given to similarly placed persons, the same cannot be denied by creating an artificial cut-off date. Both the retirees – prior to 01.01.2006 and thereafter, belonged to the same class of



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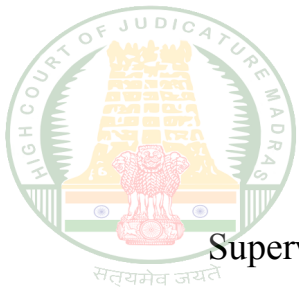
pensioners. Therefore, we do not find any intelligible differentia in the classification sought to be made."

51. The decision of the Division Bench was appealed before the Hon'ble Supreme Court in SLP No.27607-27608/2014. The Hon'ble Supreme Court by an order dated 31.10.2014 dismissed the S.L.P.

52. Earlier, the Hon'ble Supreme Court in its decision in S.L.P. (C) Nos.1444 and 1445 of 1999 on 29.10.2003 declared that STU was under the category of one of the Public Sector Undertakings but had not been recognized.

53. The Tamil Nadu State Transport Corporation issued an order dated 28.11.2014 in Letter No.10867/11572-2013/12/TNSTC-EPFT-2014-1054 and directed to all the State Transport Corporations to revise the monthly pension for the pre 2006 retirees also, on par with the retirees belonging to Managerial Cadre who retired on or after 01.01.2006.

54. Both the Managerial Cadre Employees and the Technical



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Supervisory Staffs / Administrative Supervisory Staffs, who were in service on and after 01.01.2006 have been given the pay revision as per the VII Tamil Nadu Pay Commission Recommendation vide G.O.Ms.No.303, dated 11.10.2017 notionally with effect from 01.01.2016 and with monetary benefits from 01.10.2017.

55. The Tamil Nadu State Transport Corporation issued a Circular to all Managing Directors of all State Transport Undertakings in Letter No.23/P2/TNSTC Soft/2018-2173, dated 09.05.2018 and stated that the guidelines for revision of pension for the remaining pensioners will be given separately. However, no guidelines have been passed.

56. The 12th Wage Settlement took place on 13.04.2015 under Section 12(3) of the Industries Dispute Act. In the 12th Wage Settlement, it was agreed in Paragraph No.37aa that if there is any shortfall in the funds in hands of the Pension Trust, Government would help to make good the shortfall.

57. The said Settlement was signed by all the State Transport Undertakings, Workmen Representatives as well as the Additional



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Secretary to Government, Transport Department and the Additional
Secretary to Government, Finance Department.

58. Meanwhile, in G.O.Ms.No.303, Finance (Pay Cell) Department, dated 11.10.2017 was issued for replacing the existing Pay Bands and Grade Pay for State Government Employees by a new system of level based pay matrix in a manner adopted by the Government of India for its employees.

59. Later, G.O.Ms. 313, Finance (Pay Cell) Department, dated 11.10.2017 was issued for revision of Pension/Family Pension of Government Employees who retired / died while in service before 1-1-2016. The pension /family pension was enhanced with effect from 31-12-2015. Para 5 of the said G.o reads as under;

The Pension or Family Pension, including enhanced family pension, relating to employees who retired or died while in service before 1-1-2016 shall, in the first instance, be revised in the following manner:

- i. The existing pension / family pension / enhanced family pension as on 31-12-2015,*



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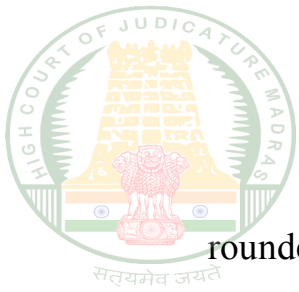
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including the commuted portion but excluding additional pension applicable to pensioners/ family pensioners of age 80 years and more, shall be multiplied by a factor of 2.57 and rounded off to the next higher ten rupee to arrive at the revised pension / family pension / enhanced family pension.

- ii. The ceiling limit for pension, family pension and enhanced family pension shall be revised from Rs.38,500/- to Rs.1,12,500/- (i.e. 50% of maximum pay in Pay Matrix of Rs. 2,25,000/-), from Rs.23,100/- to Rs.67,500/- (i.e. 30% of maximum pay in Pay Matrix of Rs.2,25,000/-) and Rs.38,500/- to Rs.1,12,500/- respectively. Therefore, if the revised pension or family pension or enhanced family pension worked out as detailed in paragraph (i) above exceeds the applicable ceiling limit, it shall be restricted to Rs.1,12,500/-, Rs.67,500/- and Rs.1,12,500/- respectively.*
- iii. The minimum revised pension / family pension / enhanced family pension shall be Rs.7,850/- per month. Therefore, if the revised pension / family pension / enhanced family pension worked out as detailed in (i) is less than Rs.7,850/- per month, it shall be stepped upto Rs.7,850/-.*

60. The said G.O was applicable to State Government Pensioners.

Pension was calculated by multiplying 2.57 to the pension amount and



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rounded off to the next higher ten rupee.

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61. Later G.O M.s No 333 dated 09.11.2017 was issued by the Government to adopt G.O M.s No 313, dated 25.10.2017 for the revision of pension/family pension to the pensioners/family pensioners in respect of the Statutory Board and in those categories who were strictly in accordance with Government Scale of Pay/Level of Pay. It is also stated that the Statutory Board shall not seek any sort of financial assistance from the Government for implementation of Pension/Family Pension. To this effect letters were issued to the CEO of the Boards.

62. Still later, G.O.Ms.No.134 dated 09.04.2018 was issued for implementation of the 7th Central Pay Commission with effect from 01.01.2016 for Managerial Cadre Staff and Technical and Administrative Staff of the Transport Department. However, the Superintendent was not included. Para 5 of the said G.O reads as under:-

The Government after careful examination of the proposal of the Managing Directors of all State Transport Undertakings in detail and ordered to implement the Tamil Nadu Revised Pay Rules 2017



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and applicable allowances to the Managerial Cadre Officers and Technical / Administrative Supervisory Cadre employees of State Transport Undertakings as ordered in Government Order second to seventh read above duly following the guidelines specified in the Government Order eighth and the Government letter ninth read above. Further, the Managing Directors of all State Transport Undertakings are requested to ensure that ;

(i) the entire financial commitment due to implementation of Revised Pay and Allowances etc., are borne by the respective corporations from out of their own resources without seeking any financial assistance from the Government either directly or indirectly.

(ii) appropriate action is taken to explore the possibilities of 'manpower rightsizing' wherever possible in order to reduce the additional manpower cost likely to be incurred due to the implementation of pay revision.

63. Based on G.O.Ms.No.303, dated 11.10.2017, the 9th respondent issued circular in letter bearing reference No. 23/P2/TNSTC/EPFT/2018-2173 dated 09.05.2018 addressed to all Managing Directors of the Respondent Corporation to revise and pay pension to the employees who are covered under Section 12(3) of Industrial Disputes Act 1947, and settlement dated 04.01.2018 and who have retired between 01.09.2016



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and 31.12.2017.

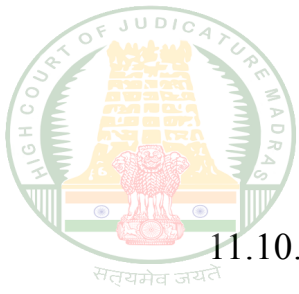
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64. No steps were initiated by the second respondent namely Managing Director, Tamil Nadu State transport Corporation (Villupuram) Ltd. for either revising the pay scale of the existing employees or pension of the retired pensioners.

65. Thereafter, steps were taken for revising the pay scale of the existing employees as on rolls. It is the complaint of the petitioner that there were apparent discrimination shown in revising the pay scale of the existing employees for the retired employees.

66. The petitioners in W.P.No.21348 of 2019 who retired after 31.03.2019 retired between 01.09.1998 to 31.03.2018 state that they have been discriminated.

67. It is submitted that the classification adopted was arbitrary and discriminatory and therefore liable to be interfered. It is further submitted that by G.O.Ms.No. 303 Finance (Pay Cell) Department dated



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11.10.2017, when the existing employees of Government were entitled to draw a higher salary at the rate of multiplication factor of 2.57 from 1.1.2016 or date of entitlement to pension/family pension which is later notionally it have monetary effect from 1.10.2017.

68. It is submitted that by the aforesaid government order the petitioner is also entitled to draw a device pension along with 5% dearness allowance as on 01.05.2017 subsequently enhanced it is submitted that the petitioner has sent a representation dated 14.2.20 20 for a revision of the pay scale.

69. The second respondent failed to issue a separate G.O. revising the pension of those retired prior to 01.04.2018. Therefore, employees who have retired after 01.04.2018 were getting their pension as per the 7th Central Pay Commission and those who people retired before 01.04.2018 were getting as per 6th Central Pay Commission Recommendations.

70. It is further submitted that the earmarked amount of Rs.25,000



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Crores to Pension related expenses for the year 2021-2022, allotting Rs.300 crores to pensioners of STUs is nothing for the Government.

71. It is submitted when the pension scheme of the respondent corporation was framed, the respondents agreed to adopt the dearness allowance rebate at delay introduced by the Government periodically. It is submitted that in terms of Rule 20 of the T.N. STC EPF Rules, the respondent where duty-bound the pay dearness allowance along with pension on par with the government servants. It is submitted that despite G.O. Ms.No.134, Transport Department, dated 09.04.2018.

72. It is submitted that the failure of the respondent in implementing the revision of dearness allowance is an application of the fundamental rights. It is submitted that the actions of the respondents are in violation of Article 14, 16, 21 and 39 of the Constitution of India. The said failure has intervened with the right of life.

73. It is submitted that once the government order in G.O.Ms.No.134, Transport (D) Department, dated 09.04.2018 has been



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issued for revising the pay scale which incorporates the previous government orders passed the purpose of revising the pay scale of the existing pensioners as well as the retirees also there cannot be any discrimination. The petitioner also relied on the decision of the honorable Supreme Court in **D.S.Nakara Vs. Union of India**, 1983 SCR (2) 165.

74. The respondents have not filed any counter in these writ petitions, they have adopted the counter filed in support of the other writ petition mutatis mutandis.

75. The 13th Wage Settlement took place on 04.01.2018. In the 13th Wage Settlement, in the presence of the Additional Secretary Transport Department and Secretary, Finance Department, it was agreed that if there is shortfall in the availability of the funds in the hands of the Pension Trust, the same will be made good by the Government of Tamil Nadu.

76. During the pendency of these Writ Petitions, G.O. (Ms) No.142, Transport (E) Department, dated 26.08.2019 was issued for:-



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a) implementation of revision of pension to the pensioners who are covered under 13th Wage Settlement (for those who have retired between 01.09.2016 and 31.12.2017) with notional effect from 01.09.2016 and with monetary benefit prospectively; and

b) implementation of the revision pension as per VII Pay Commission to the pensioners (for those who have retired between 01.01.2016 and 31.03.2018) with notional effect from 01.01.2016 and with monetary benefit prospectively.

77. I have considered the Government Orders and the rival submissions advanced on behalf of the petitioners and the respondents. The petitioners have retired from service between 01.09.1998 and 31.03.2018.

78. The common grievance of the petitioners is that the benefit of VII Pay Commission extended to the Government pensioners vide G.O.(Ms) No.313 Finance (Pay Cell) Department dated 25.10.2017 and to the pensioners of various Statutory Boards vide G.O.(Ms) No.333, Finance (BPE) Department, dated 09.11.2017 have not been extended to these petitioners.



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WEB COPY 79. It is the grievance of these petitioners that the benefits of upward revision of pensions have been given selectively only to a section of the pensioners who retired after a particular date and thus there is discrimination.

80. It is noticed that the Government has itself decided to give the benefits in various Government Orders while implementing the 5th, 6th and 7th Pay Commissions to the pensioners of Transport Department. The Tamil Nadu State Transport Corporation Employees' Pension Fund Rules was approved vide G.O. (Ms) No.135, Transport (D) Department, dated 15.12.2000. Rules 8 and 8(a) of the Tamil Nadu State Corporation Employees Pension Fund Rules reads as under:-

8. The Pension Scheme is applicable to all the employees of the establishment who are on rolls as on 1.9.98 or employed after that date and also members of the Employees Provident Fund Scheme.

In the case of outgoing employees prior to 1.9.1998, they shall be entitled to the benefits under the Employees Pension Scheme, 1995 through the Provident Fund Commissioner.



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81. Later Rule 8(a) was inserted in view of changes in the Tamil

Nadu pension Rules 1978, which reads as under :-

8(a) However, this Pension Scheme is not applicable to the employees recruited in the State Transport Undertakings on or after 1.4.2003 since such employees are covered under Contributory Pension Scheme.

82. Rule 20A of the Tamil Nadu State Transport Corporation Employees' Pension Fund Rules deals with Dearness Allowance to Pensioners which reads as under:-

20. A Dearness Allowances to Pensioners

In addition to the basic pension, the pensioners are eligible for nominal Dearness Allowance at the rates that may be determined by the Government of Tamil Nadu.

83. The Dearness Allowance is an allowance given by the Government to its employees to compensate the living due to inflation. Respondent pays Dearness Allowance as per the rates to the employees who are in service. However, it has not been extended to its retired pensioners. This is arbitrary also a violation of Article 14, 16, 21 of the



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Indian Constitution.

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84. Even as per Rule 20A, the retired Employees of the Transport Corporation are entitled for payment of pension and Dearness Allowance. As per Rule, they are eligible for Dearness Allowance similar to the employees in Service. Therefore, there is no justification in not revising the Dearness Allowance of Superintendents who retired before 01.01.2016. Therefore, on this count, W.P.Nos.1556 & 22409 of 2021 deserves to be allowed.

85. Earlier, Wage Settlement arrived on 13.04.2015. As per Clause No.37 of the said wage settlement, the pension will be increased at 15% on the pension granted on 01.09.2010 to the pensioners who retired prior to 01.09.2010 with effect from April 2015 and shortfall of amount arising in the Tamil Nadu State Transport Corporation Employees Pension Fund Trust will be compensated by the contributions of Government and Transport Corporations. Clause No.37 reads as under:-

Clause. No 37 (Tamil)	Clause. No 37 (English)
ஓய்வூதியம்	Pension



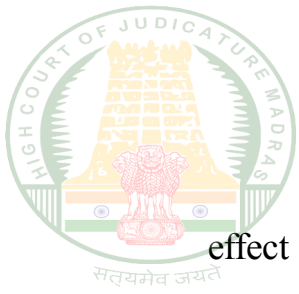
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Clause. No 37 (Tamil)	Clause. No 37 (English)
<p>அ) 01-09-2010-க்கு முன்னர் ஓய்வபெற்ற ஓய்வூதிதாரர்களுக்கு 01-09-2010 அன்று பெற்ற ஓய்வூதியத்தின் அடிப்படையில் 15 விழுக்காடுகள் ஏப்ரல் மாதம் 2015 முதல் ஓய்வூதியத்தில் உயர்த்தி வழங்கப்படும்.</p> <p>ஆ) தமிழ்நாடு அரசு போக்குவரத்துக் கழக ஓய்வூதிய நம்பகத்தில் ஏற்படும் நிதி பற்றாக்குறையை அரசு நிதி உதவியுடனும் மற்றும் போக்குவரத்துக் கழகங்களின் பங்களிப்புடனும் ஈடு செய்யப்படும்</p>	<p>a) Retirees who have retired before 01-09-2010 will be given a 15 per cent increase in their pension from April 2015 on the basis of their pension received on 01-09-2010.</p> <p>aa.) The financial deficit in the of the Tamil Nadu State Transport Corporation Pension Trust will be covered with contribution of the Government and from Transport Corporations.</p>

86. As per Clause 38 of the Wage Settlement, for grant of arrears of pension, appropriate action will be taken in time. It reads as under:-

Clause 38 (Tamil)	Clause 38 (English)
<p>ஓய்வூதியதாரர்களின் நிலுவைத் தொகை</p> <p>ஓய்வூதிய பலன்களை தேவைப்படும் நடவடிக்கைகளை எடுத்து உரிய காலத்தில் அளித்திட நடவடிக்கை எடுக்கப்படும்.</p>	<p>Pending Pension of the Retirees</p> <p>Necessary steps will be taken to provide the pension benefits in due course of the retirees.</p>

87. The Government implemented the 7th pay commission with



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effect from 01.01.2016 and monetary effect from 01.10.2017.

G.O.Ms.No.303 dated 11.10.2017 for pay revision of Government staff / employees. G.O.MS.No.313, dated 25.10.2017 and G.O.Ms.No.333, dated 09.11.2017 were for the revision of pension and family pension for the retired Government Employees and employees of various Statutory Boards.

88. Meanwhile, Wage Settlement was arrived on 04.01.2018 for the transport employees. As per Clause 41 of the said Wage Settlement, if there was any shortfall in the amount in the Tamil Nadu State Transport Corporation Employees Pension Fund Trust, the Government undertook to compensate the contributions of Transport Corporations and to grant pensionary benefits and appropriate actions will be taken in time. Clause 41 reads as under:-

Clause 41 (Tamil)	Clause 41 (English)
ஓய்வூதியம் அ) தமிழ்நாடு அரசு போக்குவரத்துக் கழக ஓய்வூதிய நம்பகத்தில் ஏற்படும் நிதி பற்றாக்குறையை அரசு நிதி உதவியுடனும் மற்றும் போக்குவரத்துக் கழகங்களின் பங்களிப்புடனும் ஈடு செய்யப்படும். ஆ) ஓய்வூதிய பலன்களை	Pension The financial deficit in Tamil Nadu Government Corporation Transport Pension Trust will be covered with the contributions of the Government and Transport Corporations.



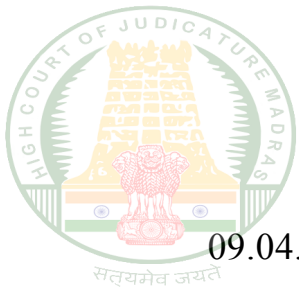
W.P.No.21348 of 2019 etc. batch

Clause 41 (Tamil)	Clause 41 (English)
வழங்க தேவைப்படும் நடவடிக்கைகளை எடுத்து உரிய காலத்தில் அளித்திட நடவடிக்கை மேற்கொள்ளப்படும்.	(aa). Necessary steps will be taken to provide the pension benefits within the due course.

89. G.OMs. 303 Finance (Pay Cell) Dept, dated 11.10.2017 was issued to revise the pay of the Government Servants with the implementation of 7th Tamil Nadu Pay Commission. Thereafter, G.O.Ms.No.313 Finance (Pay Cell) Dept dated 25.10.2017 was issued for revision of pension and family pension and retirement benefits to the Tamil Nadu Government Servants with effect from 01.01.2016.

90. G.O.Ms.No.333 Finance (BPE) Dept dated 9.11.2017 was later issued. It directed all Chief Executive Officers of the Statutory Board to adopt G.O.Ms.No.313 Finance (Pay Cell) Dept dated 25.10.2017 and to ensure the revision of pension and other financial benefits to those petitioners who retired from the Statutory Board and State Public Sector Undertakings in terms of the above mentioned G.Os.

91. Later, the Government also issued G.O.Ms.No.134, dated



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09.04.2018 directed the Transport Department to adopt a revised pay Rules 2017. Pursuant to the above order the fifth respondent issued a circular dated 09.05.2018 bearing reference No Lr.No.23/P2/TNSTC EPFT/2018-2173 to the Managing Directors of the Transport Corporation to revise the pay to the employees covered under section 12(3) of the Industrial Disputes Act 1947. The fourth respondent mentioned that separate guidelines will be issued to pensioners who retired prior to 1.1.2016. But the said guidelines were not issued even after two years.

92. The pay revision of employees of respondent STUs namely, Managerial Cadre was based on the order passed by the Government of Tamil Nadu in G.O Ms. No.134 dated 09.04.2018. Employees who were in service after issuance of G.O Ms. No.134, dated 9.4.2018 alone were considered for the pay revision and monetary benefits.

93. Separate guideline for revision of pension based on the date of retirement, i.e. the employees belonging to workmen category who retired prior to 01.09.2016 were under a separate category and employees belonging to Supervisor/officers retired prior to 01.01.2016 are under a



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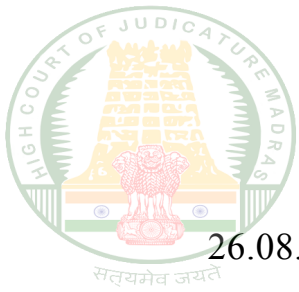
separate category, is not permissible.

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94. Under these circumstances Representation dated 25.02.2019 was given for revision of pension of these petitioners. It did not evoke any reply or revision of the pension or family pension of the staff. The retirees who retired before 01.01.2016 and after 01.01.2016 belong to the same cadre and same group.

95. The STUs revision of pension of those pensioners who retired prior to 01.01.2016 and after 01.01.2016 by treating them as a separate class belonging to the same group is not permissible. The respondents cannot differentiate them. This act of the respondents is arbitrary and violation of Article 14, 16, 21, 300-A of the Indian Constitution.

96. The last of the benefits has conferred vide G.O.(Ms) No.142, Transport (E) Department, dated 26.08.2019 on a section of the pensioners. G.O.(Ms) No.142, Transport (E) Department, dated



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26.08.2019 was issued during the pendency of the present writ petition.

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G.O.(Ms) No.142, Transport (E) Department, dated 26.08.2019 is extracted below:

Abstract

Transport – Implementation of Revision to the retired employees of State Transport Undertakings – Official Committee recommendations -Orders – issued.

Transport (E) Department

G.O.Ms.No.142

Dated 26.08.2019
Vikari Aandu
Avani 9,
Thiruvalluvaraandu, 2050

Read:

- 1.G.O.(Rt)No.32, Transport (E) Department, dated 12.02.2019.
- 2.G.O.(Rt)No.83, Transport (E) Department, dated 15.04.2019
- 3.From the Administrator, Tamil Nadu State Transport Corporation Employees Pension Fund Trust Lr.No.SPL/COMMITTEE/TNSTC/EPFT/2019-16, dated 15.04.2019.
- 4.Govt. Lr.No.16006/E/2017, dated 03.05.2019.
- 5.From the Administrator, Tamil Nadu State Transport Corporation Employees Pension Fund Trust Lr.No. 172/P2/Com/TNSTC/EPFT/2019, dated 07.05.2019.

Read also

- 6.G.O.(Ms)No.313, Finance (Pay Cell) Department, dated 25.10.2017.
- 7.G.O.(Ms)No.333, Finance (BPE) Department, dated 09.11.2017.

ORDER: In the Government Order first read above orders have been issued to form an official committee in order to examine the various issues of the pensioners of State Transport Undertakings with a request to submit its report to Government.

2. The Administrator, Tamil Nadu State Transport Corporation Employees Pension Fund Trust in his letter third read above has



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forwarded the recommendations of the committee for consideration of the Government. The Committee has recommended to implement the 13th Wage Settlement in respect of those who have retired from 01.09.2016 to 31.12.2017 and also to implement the 7th Pay Commission to the Transport employees who have retired during 01.01.2016 to 31.03.2018.

3. After careful examination, the Government have decided to accept the proposal of the Administrator, Tamil Nadu State Transport Corporation Employees Pension Fund Trust, based on the recommendations of the Official Committee and order as follows:-

(a) Implement the revision of pension to the pensioners who are covered under 13th Wage Settlement [for those who have retired between 01.09.2016 and 31.12.2017] with notional effect from 01.09.2016 and with monetary benefit prospectively.

(b) Implement the revision of pension as per 7th Pay Commission to the Pensioners [for those who have retired between 01.01.2016 and 31.03.2018] with notional effect from 01.01.2016 and with monetary benefit prospectively.

(c) Dearness Allowance at present rates shall be continued without any change.

(d) The entire financial commitment likely to arise on such revision shall incurred by the Tamil Nadu State Transport Corporation Employees Pension Fund Trust without seeking any financial assistance, in any form, from the Government.

4. This order issues with the concurrence of Finance (BPE) Department vide its U.O.No.42865/Fin(BPE)/2019, dated 26.08.2019.

(BY ORDER OF THE GOVERNOR)

DR.J.RADHAKRISHNAN
PRINCIPAL SECRETARY TO GOVERNMENT"

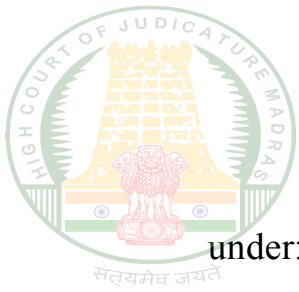


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WEB COPY 97. It was however confined to pensioners who retired as Managerial Staffs who retired between 01.01.2016 and 31.03.2018 alone. The revision was with notional effects from 01.01.2016 and with monetary benefit prospectively with effect from 26.08.2019.

98. The act of the respondent in differentiating between the Staffs who retired between 01.01.2016 and 31.03.2018 is again arbitrary and violation of Article 14,16,21 of Indian Constitution. As per the decision of the Supreme Court in **B.J Akkra vs Government of India**, (2006) 11 SCC 709, similar discriminations in the introduction of a benefit retrospectively or prospectively by fixing a cut-off date arbitrarily thereby driving a single homogenous class of petitioners into two groups and subjecting them to different treatment was held impermissible.

99. The Hon'ble Supreme Court in the case of **All Manipur Pensioners Association represented by its Secretary Vs. The State of Manipur and others** (Civil Appeal No.10857 of 2016), vide order dated 11.07.2019 is relevant. The Hon'ble Supreme Court has observed as



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under:-

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“8.1. As observed hereinabove, and even it is not in dispute that as such a decision has been taken by the State Government to revise the pension keeping in mind the increase in the cost of living. Increase in the cost of living would affect all the pensioners irrespective of whether they have retired pre1996 or post1996. As observed hereinabove, all the pensioners belong to one class. Therefore, by such a classification/cutoff date the equals are treated as unequals and therefore such a classification which has no nexus with the object and purpose of revision of pension is unreasonable, discriminatory and arbitrary and therefore the said classification was rightly set aside by the learned Single Judge of the High Court. At this stage, it is required to be observed that whenever a new benefit is granted and/or new scheme is introduced, it might be possible for the State to provide a cutoff date taking into consideration its financial resources. But the same shall not be applicable with respect to one and single class of persons, the benefit to be given to the one class of persons, who are already otherwise getting the benefits and the question is with respect to revision.

9. In view of the above and for the reasons stated above, we are of the opinion that the controversy/issue in the present appeal is squarely covered by the decision of this Court in the case of D.S. Nakara (supra). The decision of this Court in the case of D.S. Nakara (supra) shall be applicable with full force to the facts of the case on hand. The Division Bench of the High Court has clearly erred in not following the decision of this Court in the



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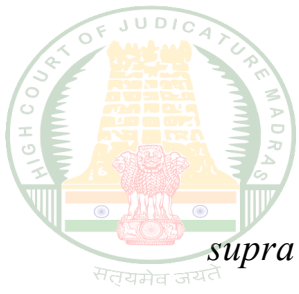
W.P.No.21348 of 2019 etc. batch

case of D.S. Nakara (supra) and has clearly erred in reversing the judgment and order of the learned Single Judge. The impugned judgment and order passed by the Division Bench is not sustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside. The judgment and order passed by the learned Single Judge is hereby restored and it is held that all the pensioners, irrespective of their date of retirement, viz. pre1996 retirees shall be entitled to revision in pension at par with those pensioners who retired post 1996. The arrears be paid to the respective pensioners within a period of three months from today.”

100. In the said order, the Hon'ble Supreme Court has also taken note of the following decisions:-

- i. ***D.S.Nakara and others Vs. Union of India*** reported in (1983) 1 SCC 305.
- ii. ***Hari Ram Gupta (D) through L.R.Kasturi Devi Vs. State of U.P.*** reported in (1998) 6 SCC 328.
- iii. ***Tamil Nadu Electricity Board Vs. R.Veerassamy and others*** reported in (1999) 3 SCC 414.
- iv. ***State of Punjab and others Vs. Amar Nath Goyal and others*** reported in (2005) 6 SCC 754.”

101. The action of the respondents is thus arbitrary. The stand of the respondents is contrary to the views of the Division Bench of this Court vide order dated 05.08.2014 in W.A.Nos.399 and 400 of 2014 cited



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supra by the petitioners.

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102. Even if the pension was to be paid from and out of the pension fund, reality is that the pension fund is being paid and funded by the State Government as the amount of pension fund is not sufficient to meet the requirements. Therefore, a uniformity has to be maintained to all the employees who were drawing pension from and out of the fund which is supported by the Government contributions.

103. W.P.Nos.21348 & 35085 of 2019 were filed prior to the issuance of G.O.(Ms) No.142, Transport (E) Department, dated 26.08.2019. The writ petition was filed for a composite prayer for granting the benefit of 7th Pay Commission with multiplying factor of 2.57, as per G.O.(Ms) No.313, Finance (Pay Cell) Department, dated 25.10.2017 and G.O.(Ms) No.333, Finance (BPE) Department, dated 09.11.2017 with arrears and interest and continue to pay the revised pension without any interruption to the petitioner. Part of the relief has been given to a section of the petitioner.



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104. Having extended the benefits to other class of pensioners and considering the fact that the pension of those pensioners is also borne by the State Government, there is no justification for discriminating between the pensioners those who retired prior to 01.01.2016. Further, the State Transport Undertakings were part of the State Transport Department. Various Transport Departments were hived off into the separate State Transport Undertakings. There was a tacit understanding that the salaries and pension of these employees and pensioners would be protected on par with their counterparts in Government Services. Therefore, there is no basis for discriminating between the employees of the State Transport Undertakings who have retired earlier.

105. There is no rationale basis to discriminate between the persons who belong to same class by artificial creating a class between them, who retired on or before 01.01.2016 and those who retired after 01.01.2018. The benefit of G.O.(Ms) No.142, Transport (E) Department, dated 26.08.2019 has to be extended uniformly. Therefore, Writ Petition filed on



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behalf of the Managerial Staffs by the Federation in W.P.No.21348 of 2019 deserves to be allowed.

106. There is no justification in not granting similar revisions to those Administrative and Technical Supervisory Staffs covered by W.P.Nos.12730 & 35085 of 2019 and 15566 & 22409 of 2021 and the petitioners in W.P.Nos.22466, 22470 & 22472 of 2021 who have retired prior to 01.01.2016.

107. There is also no justification in confining the benefit to one section of the pensioners.

108. In the light of the above discussions, I am inclined to allow all these Writ Petitions in terms of G.O.(Ms) No.142, Transport (E) Department, dated 26.08.2019. Respondents shall pay the arrears of Pension and Dearness Allowance to petitioners as made applicable to the pensioners who have retired between 01.01.2016 and 31.03.2018 with notional effect from 01.01.2016, prospectively with effect from 26.08.2019, within a period of six months from the date of receipt of this



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order.

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109. These Writ Petitions are allowed in terms of the above directions. No costs. Consequently connected Miscellaneous Petitions are closed.

22.04.2022

Internet : Yes/No

Index : Yes / No

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To

1.Chief Secretary,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.

2.The Principal Secretary,
Transport Department,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.

3.The Principal Secretary,
Finance Department,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.

4.The Deputy Secretary,
Transport Department,
Government of Tamil Nadu,
Fort St.George,
Chennai – 600 009.



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W.P.No.21348 of 2019 etc. batch

C.SARAVANAN, J.

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Pre-Delivery Common Order made
in
W.P.Nos.21348, 12730 & 35085 of 2019
and W.P.Nos.15566, 22409, 22466,
22470 & 22472 of 2021

22.04.2022