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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-09-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE KRISHNASWAMY GOVINDARAJAN

WA No. 437 of 2023 AND
WA NO. 439 OF 2023,WA NO. 447 OF 2023,
WA NO. 448 OF 2023,WA NO. 440 OF 2023,
WA NO. 445 OF 2023,WA NO. 441 OF 2023,
WP NO. 12751 OF 2021,WA NO. 1976 OF 2023,WA NO. 1965 OF 2023,WA NO. 1967 OF 2023,WA NO. 1969 OF 2023

CNR: {HCMA010105022023}

Case QR

WA No. 437 of 2023:

The Additional Chief Secretary To
Government
Tamil Nadu, Transport Department,
Secretariat, Chennai 9

..Appellant(s)

Vs

1. R.Sankaran
2. S.Balasubramanian
3. M.Ramamurthy
4. V.Thiyagarajan
5. M.Vithiyanandam
6. L.Mariyadoss
7. S.Ramalingam
8. R.Pandiyan
9. R.Baskaran

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10.V.Velusamy

11.V.Elangovan

12.S.Balakrishnan

13.R.Devarajan

14.A. Leela

15.R. Vasantha

16.V.Sivakumar

17.R.Venugopalan

18.K.Dayalan

19.P.Muthunarayanan

20.S.Umapathy

21.V.Rathinasamy

22.K.N.Karunyan

23.K.Muthusamy

24.R.Padmanabhan

25.P.Gopal

26.N.Palanisamy

27.C.R.Palanisamy

28.R.Jagannathan

29.R.Thangamudiraja

30.K.Sethuraman

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31.K.J. Vijayakumar

32.R.Santhamoorthi

33.M.Vengitusamy

34.M.P.Jaganathan

35.K.Dorairaj

36.K.Ponnuswamy

37.V.Arumugam

38.P.N.Jaganathan

39.K.Arumugam

40.A.Manoharan

41.P.Sadasivam

42.P.Shanmugavelu

43.S.Selvaraj

44.S.Somasundaram

45.P.Masilamani

46.T.T.Devaraji

47.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Pallavan Salai, Chennai 600 002.

48.The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd., 3/137, Salamedu,
Villupuram 605 602.

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49. The Managing Director,
Metropolitan Transport Corporation
(Chennai) Ltd., Anna Salai,
Chennai 600 002.

50. The Managing Director,
State Express Transport Corporation (Tamil
Nadu) Ltd., Pallavan, Salai,600 002.

51. The Managing Director,
Tamil Nadu state Transport Corporation
(Kumbakonam) Ltd., 46, Railway Station
New Road, Kumbakonam.

52. The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Ltd., Bye Pass Road,
Madurai 625 010.

53. The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Ltd., 12, Ramakrishna Road,
Salem 636 007.

54. The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore) Ltd., 37, Mettupalayam Road,
Coimbatore 641 043.

55. The Managing Director,
Tamil Nadu State Transport Corporation
(Thirunelvelli) Ltd., Vannarappettai, TVDM
Road, Thirunelvelli.

..Respondent(s)

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 22.04.2022 and made in WP.No. 35085 of 2019.

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WA.No.437 of 2023:

For Appellant(s): Mrs.Y.Kavitha
Additional Government Pleader

For Respondent(s): Mr.S.T.Varadarajalu
For R 1 To 46
Mrs.Dakshayani Reddy,
Senior Counsel
For Mr.C.S.K.Sathish
For R 47
Mr.M.Aswin For R 48 And 53
Mr.C.Gowthamraj For R 49, 52 & 55

WA.No.439 of 2023:

For Appellant(s): Mrs.Y.Kavitha
Additional Government Pleader

For Respondent(s): Mrs.Dakshayani Reddy,
Senior Counsel
For Mr.C.S.K.Sathish
For R 3
Mr.M.Aswin For R 2

WA.No.440 of 2023:

For Appellant(s): Mrs.Y.Kavitha
Additional Government Pleader

For Respondent(s): Mr.R.Krishnaswamy for R1&2
Mr.C.Gauthama Raj for R3&6
Mr.M.Aswin For R 5 & 7
Mrs.Dakshayani Reddy,
Senior Counsel
For Mr.C.S.K.Sathish
For R10

WA.No.441 of 2023:

For Appellant(s): Mrs.Y.Kavitha
Additional Government Pleader

For Respondent(s): Mr.D.Soundar Raj
for R1-8, 10&11

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Mrs.Dakshayani Reddy,
Senior Counsel
For Mr.C.S.K.Sathish
For R13

WA.Nos.445 & 448 of 2023:

For Appellant(s): Mrs.Y.Kavitha
Additional Government Pleader

For Respondent(s): Mrs.Dakshayani Reddy,
Senior Counsel
For Mr.C.S.K.Sathish
For R3

WA.No.447 of 2023:

For Appellant(s): Mrs.Y.Kavitha
Additional Government Pleader

For Respondent(s): Mr.D.Soundar Raj
for R1&2
Mrs.Dakshayani Reddy,
Senior Counsel
For Mr.C.S.K.Sathish
For R3

WA.No.1965 of 2023:

For Appellant(s): Mrs.Dakshayani Reddy,
Senior Counsel
For Mr.C.S.K.Sathish

For Respondent(s): Mrs.Y.Kavitha
Additional Government Pleader for R47
Mr.C.Gauthama Raj for R49,52&55
Mr.M.Aswin for R48&53

WA.No.1967 of 2023:

For Appellant(s): Mrs.Dakshayani Reddy,
Senior Counsel
For Mr.C.S.K.Sathish

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For Respondent(s): Mr.R.Krishnaswamy
for R1&2
Mrs.Y.Kavitha
Additional Government Pleader for R3
Mr.C.Gauthamaraj for R4
Mr.C.Senapathi for R10

WA.No.1969 of 2023:

For Appellant(s): Mrs.Dakshayani Reddy,
Senior Counsel
For Mr.C.S.K.Sathish

For Respondent(s): Mr.D.Sounder Raj for R2-8, 10&11
Mrs.Y.Kavitha
Additional Government Pleader for R12-14

WA.No.1976 of 2023:

For Appellant(s): Mrs.Dakshayani Reddy,
Senior Counsel
For Mr.C.S.K.Sathish

For Respondent(s): Mr.D.Sounder Raj for R1
Mrs.Y.Kavitha
Additional Government Pleader for R3-5

WP.No.12751 of 2021:

For Petitioner(s): Mr.M.Dinesh

For Respondent(s): Mrs.Y.Kavitha
Additional Government Pleader for R1
Mrs.Dakshayani Reddy,
Senior Counsel for Mr.C.S.K.Sathish for R2
Mr.M.Aswin for R5&8
Mr.C.Senapathi for R6
Mr.C.Gauthama Raj for R10

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COMMON JUDGMENT

(Judgment of the Court was delivered by S.M.Subramaniam J.)

WA.Nos. 437, 439, 440, 441, 445, 447 and 448 of 2023 have been instituted by Transport Department, Government of Tamil Nadu. WA.Nos.1965, 1967, 1969 and 1976 of 2023 have been instituted by the Tamil Nadu State Transport Corporation.The present batch of Intra Court Appeals have been instituted under Clause-15 of the Letters Patent, challenging the common order dated 22.04.2022 passed by learned Single Judge in a batch of Writ Petitions.

2. Writ Petitions filed by Retired Officers / Pensioners of Transport Corporations were allowed, resulting in filing of present Writ Appeals. Pensioners filed Writ Petitions to implement the benefits of G.O.Ms.No.134, Transport (D) Department dated 09.04.2018, G.O.Ms.No.313, Finance (Pay Cell) Department dated 25.10.2017 and G.O.Ms.No.142, Transport (E) Department dated 26.09.2019, by adopting multiple factor of 2.57 as granted in the Government Orders to enhance the pay scale and recalculate terminal benefits and pension.

3. FACTS IN BRIEF:

i) Pensioners in the present Writ Appeals served as employees of Transport Corporations. By Government Order dated

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29.09.2000, Tamil Nadu State Transport Undertakings were excluded from the purview of Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (in short 'the Act, 1952') with effect from 01.09.1998 and subsequently, in lieu of the Employees Pension Scheme, 1955, a separate independent pension scheme, viz., Tamil Nadu State Transport Corporation Employees' Pension Scheme (hereinafter referred to as 'the Pension Scheme) was introduced and implemented with effect from 01.09.1998.

ii) Employees, who opted for Pension Scheme were granted benefits under the provisions of Scheme. Tamil Nadu State Transport Corporation Employees' Pension Fund Rules were notified and Rule 2(w) of Rules defines that "Pensionary benefits" shall mean the pension or service gratuity and family pension and do not include Death-cum-Retirement Gratuity, applicable to the employees of Government of Tamil Nadu.

iii) Thus, Pension Rules were exclusively framed for the benefit of Retired Employees of Transport Corporation across State of Tamil Nadu and Rules itself list out eligible Transport Corporations under Rule 2(f), which defines that "Companies" shall mean the following State Transport Undertakings under the control of Government of Tamil Nadu:

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MTC (Chennai Division-I) Ltd., Chennai
MTC (Chennai Division-II) Ltd., Chennai
SETC (Tamil Nadu Division-I) Ltd., Chennai
SETC (Tamil Nadu Division-II) Ltd., Chennai
TNSTC (Villupuram Division-I) Ltd., Villupuram
TNSTC (Villupuram Division-II) Ltd., Vellore
TNSTC (Villupuram Division-III) Ltd. Kancheepuram
TNSTC (Salem Division-I) Ltd., Salem
TNSTC (Salem Division-II) Ltd., Dharmapuri
TNSTC (Coimbatore Division-I) Ltd., Coimbatore
TNSTC (Coimbatore Division-II) Ltd., Erode
TNSTC (Kumbakonam Division-I) Ltd., Kumbakonam
TNSTC (Kumbakonam Division-II) Ltd., Trichy
TNSTC (Kumbakonam Division-III) Ltd., Karaikudi
TNSTC (Kumbakonam Division-IV) Ltd., Pudukkottai
TNSTC (Madurai Division-I) Ltd., Madurai
TNSTC (Madurai Division-II) Ltd., Tirunelveli
TNSTC (Madurai Division-III) Ltd., Nagercoil
TNSTC (Madurai Division-IV) Ltd., Dindigul
TNSTC (Madurai Division-V) Ltd., Virudhunagar

iv) Therefore, Transport Corporations are registered under the Companies Act and for the welfare of Retired Employees of Transport Corporations. A separate Pension Scheme was notified, which came into force with effect from 01.09.1998 and Scheme was extended to retired employees, who opted for pension scheme and in respect of other employees, terminal benefits were settled under the provisions of Provident Fund Act. Therefore, pensioners of Companies owned by State cannot be equated with Government Departments.

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v) Legal position is that identity of the Government company remains distinct from the Government. The Government company is not identified with the Union but has been placed under a special system of control and conferred certain privileges by virtue of the provisions contained in Sections 619 and 620 of the Companies Act. Merely because the entire shareholding is owned by the Central Government will not make the incorporated company as Central Government. It is also equally well settled that the employees of the Government company are not civil servants and so are not entitled to the protection afforded by Article 311 of the Constitution. The said proposition has been laid down by Hon'ble Supreme Court of India in the case of ***Pyare Lal Sharma vs. Managing Director***[1]. Since employees of Government companies are are not Government servants, they have absolutely no legal right to claim that the Government should pay their salary or that the additional expenditure incurred on account of revision of their pay scale should be met by the Government. Being employees of the Companies, it is the responsibility of the companies to pay them salary and if the company is sustaining losses continuously over a period and does not have the financial capacity to revise or enhance the pay scale, employees cannot claim any legal right to ask for a direction to the Central Government to meet the additional expenditure which may be incurred on account of

[1](1989) 3 SCC 448

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revision of pay scales.

vi) In the context of distinction between Government owned Company and Government Departments, Pension Scheme applicable for Transport Corporations is to be dealt with.

vii) Pension, though given the status of right under the Constitution, still exists within the contours of the Scheme framed by Government under Relevant Rules, in the present case Pension Scheme, 1998. When the Scheme contemplates certain benefits, the same cannot be taken as a ladder to claim further benefits over and above stipulations made under Scheme.

viii) High Court, in exercise of powers conferred under Article 226 of Constitution of India, cannot extend any additional benefits over and above the benefits conferred under Pension Scheme. Such exercise would fall beyond the realm of powers of judicial review.

4. ARGUMENTS OF APPELLANTS:

i) Mrs.Dakshayani Reddy, learned Senior Counsel appearing on behalf of Transport Corporations would mainly contend that

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Pensioners served as Supervisory Staff in the Transport Corporation and they were not Workmen under the Industrial Disputes Act. Government accepted recommendations of the Board and issued G.O.Ms.No.142, Transport (E) Department dated 26.09.2019, implementing revision of pension to Retired Employees of State Transport Corporations. The said Government Order stipulates that revision of pension as per 7th Pay Commission to 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. Further, Government Order states that the entire financial commitment likely to arise on such revision shall be incurred by the Tamil Nadu State Transport Corporation Employees Pension Fund Trust without seeking any financial assistance, in any form, from the Government.

ii) The said Government Order issued extending the benefit of 7th Pay Commission remains unchallenged. Other Government Orders through which Pensioners are seeking additional benefits also remain unchallenged. Fixing of cut off date for implementing Pay Commission and extending monetary benefits are well recognized by Constitutional Courts. The cut off date is fixed based on various factors, including financial burden likely to be caused to Transport Corporations. Transport Corporations in Tamil Nadu are already suffering monetary loss that was

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also taken into consideration by Board, while recommending revision of pension and Government has considered and fixed cut off date.

iii) The cut off date of 01.01.2016 is the date for implementation of Pay Commission to Government Departments and its employees. The date of implementation of 7th Pay commission by State Government was taken into consideration by Government and therefore, there is nexus for fixation of cut off date, which cannot be interfered with by Courts, as it is a policy decision taken by considering the financial implications in the matter of revision of pension, family pension, etc.

iv) Learned Single Judge in the writ order impugned merely proceeded on the basis that Government Pensioners and Transport Corporation Pensioners are homogeneous class and they cannot be treated differently. In Paragraph Nos.104 and 105 of the judgment impugned, finding of the Writ Court is that there cannot be any discrimination amongst State Government Pensioners and Transport Corporation Pensioners.

5. Mrs.Y.Kavitha, learned Additional Government Pleader appearing for State would also support the contentions of Transport Corporation, by stating that Government Pensioners cannot be treated

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on par with Transport Corporation Pensioners. They cannot be treated as homogenous class. They are two different class of pensioners falling under different Pension Schemes and therefore, the very basis on which Writ Court allowed Writ Petitions is not in consonance with the legal principles. She would further contend that financial constraint was also a consideration of Government, while extending benefits of 7th Pay Commission to pensioners of Transport Corporations. The cut off date was fixed taking into consideration the recommendation of 7th Pay Commission in the State and therefore, no different yardstick can be adopted in respect of fixation of cut off date to Government Employees that was taken into consideration for extending the benefit of 7th Pay Commission to State Transport Corporation pensioners. Thus, Writ Court committed error in holding that fixation of cut off date has no nexus and cut of date is the date fixed for implementing 7th Pay Commission in totality, which is a policy decision of the Government and would not have been interfered with by Writ Court.

6. ARGUMENTS ADVANCED BY FEDERATION/WRIT PETITIONER:

i) Learned Counsels appearing on behalf of Pensioners / Writ Petitioners would oppose, by stating that pension is a right. Such a right has been settled by Supreme Court of India in the case of ***D.S.Nakara***

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and others vs. Union of India[2]. ***D.S.Nakara's case*** opposed fixing of cut off date. Pensioners are to be treated as homogenous class. There cannot be any discrimination amongst pensioners in the matter of grant of revision of pay. In the present case, cut off date was fixed as 01.01.2016 and pensioners, who retired from service prior to 01.01.2016 were discriminated. Thus, Government Order is in violation of principles laid down in ***D.S.Nakara's case*** (supra). Fixation of cut off date has no nexus and such fixation itself is contrary to principles laid down in ***D.S.Nakara's case*** (supra). The order of Writ Court impugned is not only equitable order, but it is an order passed based on the principles settled in ***D.S.Nakara's case*** (supra). Artificial cut off date of 01.01.2016 fixed without considering Pensioners as homogenous class is untenable, as rightly held by Writ Court. Thus, the present Writ Appeals are to be rejected.

ii) Learned Counsels would rely on the judgment in the case of ***All Manipur Pensioners Association vs. State of Manipur and Others***[3]. He has made more emphasis on ***All Manipur Pensioners'*** case, since it covers not only ***D.S.Nakara's case,*** but also validity of cut off date fixed for implementing revision of pay to pensioners. Other

[2](1983) 1 SCC 305
[3](2020) 14 SCC 625

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judgments relied on by learned Senior Counsel are also relatable to fixing of cut off date and treating pensioners as homogenous class.

iii) Learned Counsels would rely on the judgment in the case of ***Adani Power Limited and another vs. Union of India and others***[4] for the purpose of emphasising that effect of binding declaration on a later Co-ordinate Bench. Principles in this regard has been settled by a Constitution Bench of Hon'ble Supreme Court in the case of ***National Insurance Company Limited vs. Pranay Sethi and others***[5], reported in ***2017 (16) SCC 680.*** Therefore, Writ Order is based on the sound legal principles and Writ Appeals are to be rejected.

7. DISCUSSIONS:

i) It is not in dispute that Transport Corporations owned by Government of Tamil Nadu are "Companies registered under the Companies Act". Service conditions are governed under separate Rules. Tamil Nadu State Transport Corporation Employees' Pension Fund Rules had been constituted for the purpose of grant of pension to Retired employees of Transport Corporations. Rules framed under the

[4]2026 INSC 1
[5]2017 (16) SCC 680

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Scheme alone are to be applied for implementing Pension Scheme to pensioners of Transport Corporations.

ii) Rule 2(w) of Rules defines that "Pensionary benefits" shall mean the pension or service gratuity and family pension and do not include Death-cum-Retirement Gratuity, applicable to the employees of Government of Tamil Nadu. Therefore, whenever Government decides to accept the recommendation of Board for revision of pay or pension, a separate administrative decision / policy is to be taken for extending the benefits.

iii) In the present case also, Government took a policy decision to implement revision of pension to Retired Employees of State Transport Corporations. Accordingly, G.O.Ms.No.142, Transport (E) Department dated 26.09.2019 had been issued. Reading of Government Order would show that administrative decision was taken by Government to implement revision of pension as per 7th Pay Commission to 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. Pertinently, the said administrative decision taken by Government remains unchallenged. Other Government Orders extending the benefit of 7th Pay Commission to employees of State Transport Corporations also remain unchallenged.

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iv) Admittedly, employees of 1st respondent Federation / Writ Petitioner retired prior to 01.01.2016. They are not eligible for revision of pension under G.O.Ms.No.142. Therefore, they are seeking extension of benefit of G.O.Ms.No.142 in respect of pensioners, who retired prior to 01.01.2016.

v) In the event of accepting the ground raised in this regard, all Pensioners of State Transport Corporations, who retired prior to 01.01.2016 would also be eligible under G.O.Ms.No.142. In this regard, Mrs.Dakshayani Reddy, learned Senior Counsel appearing on behalf of Transport Corporation would mainly submit that the financial commitment to Transport Corporations would be approximately Rs.1300 Crores. Pertinently, Pension Trust was constituted from and out of financial resources from Transport Corporations. The Trust cannot afford to pay such a huge amount by way of revision of pension to Pensioners. Board took a decision to implement the 7th Pay Commission with effect from 01.01.2016. Accepting the recommendations of the Board, Government also issued G.O.Ms.No.142, extending revision of pension to pensioners of Transport Corporations with effect from 01.01.2016 and monetary benefits prospectively.

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vi) Regarding policy decision taken by Government and State Transport Corporations regarding financial burden, learned Additional Government Pleader would rely on the following judgments of Supreme Court of India:

a) ***Small Scale Industrial Manufactures Association (Registered) vs. Union of India and Others***[6];

> "69. What is best in the national economy and in what manner and to what extent the financial reliefs/packages be formulated, offered and implemented is ultimately to be decided by the Government and RBI on the aid and advice of the experts. The same is a matter for decision exclusively within the province of the Central Government. Such matters do not ordinarily attract the power of judicial review. Merely because some class/sector may not be agreeable and/or satisfied with such packages/policy decisions, the courts, in exercise of the power of judicial review, do not ordinarily interfere with the policy decisions, unless such policy could be faulted on the ground of mala fides, arbitrariness, unfairness, etc.

b) ***State of Maharashtra and another vs. Bhagwan and others***[7];

> "25. In T.M. Sampath v. Ministry of Water Resources[8], the employees of National Water Development Agency (NWDA), an autonomous body under the aegis and control of Ministry of Water Resources claimed the pensionary benefits on par with the Central Government employees. Refusing to allow such pensionary benefits to the employees of NWDA on par with the Central Government employees, in paragraphs 16 and 17, it was observed and held as under:

[6](2021) 8 SCC 511
[7](2022) 4 SCC 193
[8](2015) 5 SCC 333

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"16. On the issue of parity between the employees of NWDA and Central Government employees, even if it is assumed that the 1982 Rules did not exist or were not applicable on the date of the OM i.e. 1-5-1987, the relevant date of parity, the principle of parity cannot be applicable to the employees of NWDA. NWDA cannot be treated as an instrumentality of the State under Article 12 of the Constitution merely on the basis that its funds are granted by the Central Government. In Zee Telefilms Ltd. v. Union of India [(2005) 4 SCC 649], it was held by this Court that the autonomous bodies having some nexus with the Government by itself would not bring them within the sweep of the expression "State" and each case must be determined on its own merits. Thus, the plea of the employees of NWDA to be treated on a par with their counterparts in the Central Government under sub-rule (6)(iv) of Rule 209 of the General Financial Rules, merely on the basis of funding is not applicable. 17. Even if it is presumed that NWDA is "State" under Article 12 of the Constitution, the appellants have failed to prove that they are on a par with their counterparts, with whom they claim parity. As held by this Court in UT, Chandigarh v. Krishan Bhandari [(1996) 11 SCC 348], the claim to equality can be claimed when there is discrimination by the State between two persons who are similarly situated. The said discrimination cannot be invoked in cases where discrimination sought to be shown is between acts of two different authorities functioning as State under Article 12. Thus, the employees of NWDA cannot be said to be "Central Government employees" as stated in the OM for its applicability."

c) ***The Reserve Bank of India vs. M.T.Mani and another***[9];

"39. The financial aspect, in itself, is a valid consideration, as stated above, and would be applicable in the present case. The Respondent, therefore, cannot be permitted to choose a particular aspect of the Scheme that

[9]2025 INSC 769

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makes it unworkable, and that too for his own financial benefit. Approbation and Ireprobation would not be permissible in such schemes. Respondent having once opted for the Scheme cannot be permitted to not accept a part thereof while intending to take the benefit of the Scheme as a whole."

vii) The next question would be about the validity of cut off dated fixed by Government and by State Transport Corporations for implementation of 7th Pay Commission for revision of pension to Retired Employees. The validity of cut off date for extending monetary benefits or Pay Commission are well settled.

viii) In the case of ***Chairman and MD, Kerala SRTC vs. K.O.Varghese and others***[10], Apex Court held as follows:

"23. Even before us, also, it has been clearly pleaded by KSRTC that its financial position is unsound. In fact, the High Court has also noticed it. This Court has held that the financial position of a corporation like KSRTC is certainly relevant when the corporation takes a decision as to whether it should implement a recommendation for enhanced emoluments and pension. Since we find from the relevant aspects brought out that the financial position of KSRTC is not sound, we are of the view that the decision taken by the State Government not to implement, here and now, the recommendations of the Fifth Pay Commission for KSRTC and the decision based on it by KSRTC are fully justified. Certainly, the decision cannot be said to be vitiated by any extraneous consideration or perverse appreciation of the circumstances obtaining."

ix) In the case of ***Himachal Road Transport Corporation***

[10](2007) 8 SCC 231

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and another vs. Himachal Road Transport Corporation Retired Employees Union[11], Three Judges' Bench of Hon'ble Supreme Court of India by relying on ***D.S.Nakara's case*** (supra) held as follows:

> **"15.** In the case of *D.S. Nakara*, this Court had treated the pension retirees only, as a homogeneous class and all the pensioners governed by *The 1972 Rules*, were treated as a class, because payment of pension was a continuing obligation on the part of the State, till life long to the pensioners, unlike the beneficiaries of the Contributory Provident Fund. In the said case, it was never held that the pension retirees and the employees in service, constitute a homogeneous class. In the case of *R.L Marwaha* v. *Union of India*2, this Court has held that fixing of a date for grant of benefit, must have nexus with the object sought to be achieved. There cannot be any dispute on the proposition. Further, the case of *Union of India* v. *Deoki Nandan Aggarwal*3, relates to fixation of cut-off date, for grant of liberalized Pension Scheme. Even in the case of *Subrata Sen* v. *Union of India*4, where a cut-off date was fixed for the purpose of applicability of revised pension scheme this Court has held that all retired employees constitute one homogeneous class and there cannot be cut-off date fixed to extend such benefits. All the above said cases which are referred to and relied on by the High Court are not relevant and cannot be pressed into service, to decide the issue which arises on the facts of this case.
>
> **16.** Though there are long line of cases, where validity of fixation of cut-off date is considered by this Court, we confine and refer to the case law which is relevant to the facts of the case on hand. In the case of *State of Punjab* v. *Amar Nath Goyal*5, while examining the validity of cut-off date fixed for grant of benefit of increased quantum of death-cum-retirement gratuity, this Court has held that the financial constraint pleaded by the Government, was a valid ground for fixation of cut-off date and such fixation was not arbitrary, irrational or violative of Article 14 of the Constitution. While differentiating the facts with the case

[11]Civil Appeal No.7230 of 2012 dated 22.02.2021

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of *D.S. Nakara*1, this Court held in para 29 of the judgment, which reads as under:

> "***29.*** *D.S.Nakara* which is the mainstay of the case of the employees arose under special circumstances, quite different from the present case. It was a case of revision of pensionary benefits and classification of pensioners into two groups by drawing a cut-off line and granting the revised pensionary benefits to employees retiring on or after the cut-off date. The criterion made applicable was "being in service and retiring subsequent to the specified date". This Court held that for being eligible for liberalised Pension Scheme, application of such a criterion is violative of Article 14 of the Constitution, as it was both arbitrary and discriminatory in nature. The reason given by the Court was that the employees who retired prior to a specified date, and those who retired thereafter formed one class of pensioners. The attempt to classify them into separate classes/groups for the purpose of pensionary benefits was not founded on any *intelligible dirrerentia*, which had a rational nexus with the object sought to be achieved. However, it must be noted that even in cases of pension, subsequent judgments of this Court have considerably watered down the rigid view taken in *D.S. Nakara*1 as we shall see later in *T.N. Electricity Board* v. *R. Veerasamy ("Veerasamy")*. In any event, this is not a case of a continuing benefit like pension; it is a one-time benefit like gratuity."

x) To consolidate issues raised in the present Intra Court Appeals, employees of Federation / Writ Petitioners are pensioners of State Transport Corporations retired prior to 01.01.2016. Accepting the recommendation of the Board of the Company (Transport Corporation), Government issued G.O.Ms.No.142, extending the benefit of 7th Pay

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Commission to State Transport Corporation Pensioners, for those who retired between 01.01.2016 and 31.03.2018 with notional effect from 01.01.2016 and with monetary benefit prospectively. Admittedly, 7th Pay Commission recommendation was implemented by State Government with effect from 01.01.2016. The Government Order remains unchallenged.

xi) The cut off date for implementation of financial benefits have been well recognized by Constitutional Courts across the country. Financial burden taken into consideration by way of policy decision need not be interfered with by Courts.

xii) In the present case, Writ Court has made a finding that fixing a cut off date for Pensioners by itself is erroneous, since Pensioners as a whole belong to homogenous class. Such a finding is running counter to legal position settled. Retired State Government employees are governed under different set of Rules, namely, Tamil Nadu Pension Rules, 1978, whereas Retired employees of State Transport Corporation (Company) registered under the Companies Act are governed under a separate Pension Fund Rules. Therefore, these two retired employees cannot be treated as homogenous class for the purpose of extending Pension Scheme of the Government, *mutatis*

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mutandis to retired employees of Transport Corporations.

CONCLUSION:

In view of the above discussions, this Court has arrived at an irresistible conclusion that the writ common order dated 22.04.2022 passed in W.P.No.12730 & 35085 of 2019 & 15566, 22409, 22466, 22470 & 22472 of 2021 deserves to be interfered with and the same stand set aside. Accordingly, the present Writ Appeals are allowed. In view of the order passed in the aforesaid writ appeals, W.P.No.12751 of 2021 stands dismissed. No costs. Consequently, the connected Miscellaneous Petitions, if any, are closed.

(S.M.S.,J.) (K.G.R.,J.)
25-09-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

GD
Note: Registry is directed to type the remaining cause titles.

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To

1. The Administrator,
   Tamil Nadu State Transport, Corporation
   Employees Pension Fund Trust, Pallavan
   Salai, Chennai 600 002.

2. The Managing Director,
   Tamil Nadu State Transport, Corporation
   (Villupuam) Ltd., 3/137, Salamedu,
   Villupuam 605 602.

3. The Managing Director,
   Metropolitan Transport Corporation
   (Chennai) Ltd., Anna Salai, Chennai 600
   002.

4. The Managing Director,
   State Express Transport Corporation (Tamil
   Nadu) Ltd., Pallavan, Salai,600 002.

5. The Managing Director,
   Tamil Nadu state Transport Corporation
   (Kumbakonam) Ltd., 46, Railway Station
   New Road, Kumbakonam.

6. The Managing Director,
   Tamil Nadu State Transport, Corporation
   (Madurai) Ltd., Bye Pass Road, Madurai
   625 010.

7. The Managing Director,
   Tamil Nadu State Transport, Corporation
   (Salem) Ltd., 12, Ramakrishna Road,
   Salem 636 007.

8. The Managing Director,
   Tamil Nadu State Transport Corporation
   (Coimbatore) Ltd., 37, Mettupalayam Road,
   Coimbatore 641 043.

9. The Managing Director,
Tamil Nadu State Transport Corporation
(Thirunelvelli) Ltd., Vannarappettai, TVDM
Road, Thirunelvelli.

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S.M.SUBRAMANIAM, J.
AND
KRISHNASWAMY GOVINDARAJAN, J.

GD

WA No. 437 of 2023 AND
WA NO. 439 OF 2023,WA NO. 447 OF 2023,
WA NO. 448 OF 2023,WA NO. 440 OF 2023,
WA NO. 445 OF 2023,WA NO. 441 OF 2023,
WP NO. 12751 OF 2021,WA NO. 1976 OF 2023,WA NO. 1965 OF 2023,WA NO. 1967 OF 2023,WA NO. 1969 OF 2023

25-09-2026