



TAMIL NADU GOVERNMENT GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 160]

CHENNAI, THURSDAY, MAY 3, 2018
Chithirai 20, Vilambi, Thiruvalluvar Aandu-2049

Part II—Section 2

**Notifications or Orders of interest to a Section of the public
issued by Secretariat Departments.**

NOTIFICATIONS BY GOVERNMENT

TRANSPORT DEPARTMENT

Arbitration-Indefinite Strike entered by certain Trade Union against the 13th Wage settlement—Appointment of Thiru E. Padmanabhan Hon'ble Judge of Madras High Court (Retd.) as an Arbitrator under Section 10(A) of Industrial Disputes Act 1947 by the Hon'ble High Court of Madras.

[Letter No. 242/C1/2018-13, Transport (C1), 3rd May 2018]

No. II(2)/TRA/440(b)/2018.

ARBITRAL TRIBUNAL CONSISTING OF MR. JUSTICE E. PADMANABHAN (RETD.)
SOLE ARBITRATOR

(as per the Orders of the Hon'ble High Court Of Madras IN W.P. Nos. 330, 414, 415, and 478 of 2018 and W.M.P. Nos. 385,555, 580,614,781 and 893 of 2018)

IN THE MATTER OF ARBITRATION OF DISPUTE RELATING TO FIXING OF MULTIPLIER 2.57 WITH RESPECT TO WAGES OF TRANSPORT WORKERS OF UNIONS AND RESPONDENT TRANSPORT CORPORATIONS.

Thozhilalar Munnettra Sanga Pervavi (LPF) and 29 others—*Claimants*.*Versus*The Secretary to Government, Tamil Nadu Transport Corporation Department, and 26 others—*Respondents*

Award Passed by the Arbitrator Under Section 10(A) of the Industrial Disputes Act 1947, on 26th March 2018.

JUSTICE E. PADMANABHAN (RETD.)
SOLE ARBITRATOR

Arbitral Tribunal Consisting of Mr. Justice E. Padmanabhan (Retd.)Sole Arbitrator

(AS PER THE ORDERS OF THE HON'BLE HIGH COURT OF MADRAS IN W.P. NOS. 330, 414, 415, AND 478 OF 2018 AND W.M.P. NOS. 385,555, 580,614,781 AND 893 OF 2018)

IN THE MATTER OF ARBITRATION OF DISPUTE RELATING TO FIXING OF MULTIPLIER 2.57 WITH RESPECT TO WAGES OF TRANSPORT WORKERS OF UNIONS AND RESPONDENT TRANSPORT CORPORATIONS.

- 1 Thozhilalar Munnettra Sanga Peravai (LPF), Represented by its Counsel Mr. V.Prakash, Senior Counsel for P.Ganesh Ram
- 2 Tamil Nadu Arasu Pokkuvarathu Uzhiar Sammelanam (CITU), Represented by its Counsel Mr. Ajoy khose
- 3 Tamil Nadu Arasu Pokkuvarathu Kazaga Paniyalar Sammelanam (TTSF), Represented by its Counsel Ms.Ramapriya Gopala Krishnan
- 4 India Desiya Pokkuvarathu Thozhilalar Sammelanam (INTUC), Represented by its Counsel Mr. S.T.Varadharajulu
- 5 India Desia Arasu Pokkuvarathu Thozhilalar Peravai (INGTWF) Mr. Elumalai, Union Representative
- 6 Tamil Nadu Arasu Pokkuvarathu Kazhagangalin Thozhilalar Sammelanam (AITUC), Represented by its Counsel Mr. C.K. Chandresakran
- 7 Tamil Nadu Salai Pokkuvarathu Thozhilalar (HMS) Peravai Represented by its Counsel Mrs. Kala Ramesh
- 8 Marumalarchi Thozhilalar Munnani (MLF) Represented by its Counsel Ms.Ramapriya Gopala Krishnan
- 9 Arivar Ambedkar Pokkuvarathu Thozhilalar Viduthalai Munnani(AALLF) Represented by its Counsel Mr. V.Prakash, Senior Counsel for Ms. Mathreyi
- 10 Dravidar Thozhilalar Kazhaga Peravai(DWU) Represented by its Counsel Mr. V.Prakash, Senior Counsel for P.Ganesh Ram
- 11 Pattali Thozhirsanga Peravai (PTS)No Representation
- 12 Tamil Nadu Arasu Pokkuvarathu Kazhaga Janathathala Thozhirsanga Peravai (S) Represented by its Counsel Mr. D.Arulraj
- 13 Tamil Nadu Barathiya Pokkuvarathu Thozhilalar Peravai (BMS) Represented by its Counsel Mr. Deivasigamani
- 14 Tamil Nadu Arasu Pokkuvarathu Kazhaga Thozhilalar Pathukappu Peravai (EPF) Represented by its Counsel Mr. V.Prakash, Senior Counsel for P.Ganesh Ram
- 15 Akila India Forward Block Motor Thozhilalar Sangam (TUCC) No Representation
- 16 Babhasahip Ambedkar Arasu Pokkuvarathu Thozhirsanga Peravai (BSATTP) No Representation
- 17 Puthiya Tamizagam Thozhirsanga Peravai (PTLF) Represented by its Counsel Mr. V.Prakash, Senior Counsel for P.Ganesh Ram
- 18 Desiya Murpokku Thozhirsanga Peravi (DMTSP) No Representation
- 19 Makkal Desam Arasu Pokkuvarathu Kazhaga Thozirsanga Peravai, No Representation
- 20 Arasu Pokkuvarathu Pothu Thozhilalar Manidha Vurimai Thozhirsangam(HRTU) No Representation
- 21 Nethaji Pokkuvarathu Thozhilalargal Pathukappu Thozhirsangam, No Representation
- 22 Tamil Nadu Arasu Pokkuvarathu Kazhaga Thozhilnutpa Paniyalargal Sanga Peravai (Katchi Sarbatrathu) (TNPSP) Represented by its Counsel Mr. B.Arvind Babu
- 23 Naam Thamizhar Thozhilalar Nalasangam, No Representation
- 24 Babhasahip Ambedkar Kudiয়ারasu Thozhilalar Sangam, No Representation
- 25 Tamil Nadu Arasu Pokkuvarathu Kazaga Murpokku Thozhilalargal Munetra Peravai(MTMP), No Representation
- 26 Akila India Thozhiarsanga Maiya Counsel(AICCTU) No Representation

- 27 Tamil Nadu Arasu Pokkuvarathu Kazhaga Muvendhar Munnani Kazhaga Thozhilalar Sangam, Represented by its Counsel Mr. V.Prakash, Senior Counsel for P.Ganesh Ram
- 28 Thozhilalar Vazvurimai Sanga Peravai, No Representation
- 29 Tamil Manila Trade Union Congress Peravai (TMTUC), Mr. V.Prakash, Senior Counsel for P.Ganesh Ram
- 30 Tamil Nadu Manitha Vurimigal Kazhaga Thozhirsanga Peravai, Represented by its Counsel Mr. V.Prakash, Senior Counsel for P.Ganesh Ram

.... Claimants / Trade Unions

VS

- 1 The Secretary to Government,
Tamil Nadu Transport Corporation Department,
Government of Tamil Nadu, Secretariat,
Fort St. George, Chennai -600 009.
- 2 The Convener,
13TH Wage Settlement,
Tamil Nadu State Transport Corporation Ltd.,
Thiruvalluvar Illam, Pallavan Salai, Chennai -600 002.
- 3 Metropolitan Transport Corporation (Chennai) Limited, Chennai.
- 4 State Express Transport Corporation Tamil Nadu Limited, Chennai.
- 5 Tamil Nadu State Transport Corporation (Villupuram) Limited, Villupuram.
- 6 Tamil Nadu State Transport Corporation (Salem) Limited, Salem.
- 7 Tamil Nadu State Transport Corporation (Coimbatore) Limited, Coimbatore.
- 8 Tamil Nadu State Transport Corporation (Kumbakonam) Limited, Kumbakonam.
- 9 Tamil Nadu State Transport Corporation (Madurai) Limited, Madurai.
- 10 Tamil Nadu State Transport Corporation (Tirunelveli) Limited, Tirunelveli. ... Respondents / Employers
11. Anna Thozhirsanga Peravi (ATP) Represented by its Counsel Mr. Balan Haridoss, Advocate appearing for Mr. Kathiresan
12. Akila India Manidha Urimaigal Arasu Pokkuvarathu Matrum Pothu Thozhilalargal Inaipatchi Peravai (nguit) (AIHRF) Represented by its Counsel Mr. PL.Narayanan, Senior Counsel for Mr.D.Gopal
13. Thiru. Vi. Ka Thozhirsanga Peravai Tamil Nadu Arasu Anaithu Pokkuvarathu Sangam (Thiru.v.ka) Represented by its Counsel Mr. PL.Narayanan, Senior Advocate for Mr.G.Elamaran
14. Tamil Nadu Arasu Pokkuvarathu kazhaga Thozhilalargal Nalla Sangam, Represented by its Counsel Mr. PL.Narayanan, Senior Advocate for Mr.G.Elamaran
15. Tamil Nadu Arasu Pokkuvarathu Kazhagam Dr. Ambedkar Thozhilalar Thozhirsanga Peravai Represented by its Counsel Mr. P.L.Narayanan, Senior Advocate for Mr.D.Gopal
16. Tamil Nadu Arasu Pokkuvarathu Kazhaga Puratchi Bharatham Manila Thozhirsanga Peravi Represented by its Counsel Mr. PL.Narayanan for Mr.G.Elamaran
17. Tamil Nadu Arasu Pokkuvarathu Kazhaga Kamaraj Nadar Thozhilalar Sangam, Represented by its Counsel Mr. PL.Narayanan, Senior Advocate for Mr.D.Gopal
18. Tamil Nadu Arasu Pokkuvarathu Kazhaga Pattaya (Diploma) Thozhilnutpa Paniyalargal Sammelanam, Represented by its Counsel Mr. PL.Narayanan, Senior Advocate for Mr.G.Elamaran
19. Tamil Nadu Arasu Pokkuvarathu Kazhagangalin Pattathari Matrum Pothu Thozhilalar Nalla Sangam (GGWWU), Represented by its Counsel Mr. PL.Narayanan Senior Advocate for Mr.D.Gopal

20. Tamil Nadu Arasu Pokkuvarathu Kazhaga SC/ST Vuzhiargal Nalla Sangam (SC/ST C.e.ng.), Represented by its Counsel Mr. PL.Narayanan, Senior Advocate for Mr.D.Gopal
21. Tamizhaga Pokkuvarathu Thozhilalar Kazhaga Padhukappu Sangam(TPTPS), Represented by its Counsel Mr. PL.Narayanan, Senior Advocate for Mr.G.Elamaran
22. Chennai Managar Arasu Pokkuvarathu Kazhaga Thozhilalar Viduthalai Munnani (LLF), Represented by its Counsel Mr. PL. Narayanan, Senior Advocate for Mr.D.Gopal
23. Tamil Nadu Pokkuvarathu Kazhaga Panialar Bhahujan Thozhirsangam, Represented by its Counsel Mr. PL. Narayanan, Senior Advocate for Mr. D. Gopal
24. Tamil Nadu Arasu Pokkuvarathu Kazhaga (Company Ltd.) Veerapandiya Kattabomman Thozhirsanga Peravai, Represented by its Counsel Mr. PL.Narayanan, Senior Advocate for Mr. D. Gopal
25. Managar Pokkuvarathu Kazhaga Thozhilalar Vurimai Thozhirsangam (India Jananayaka Katchi), Represented by its Counsel Mr. PL. Narayanan, Senior Advocate for Mr.G.Elamaran
26. TNUK Pothu Thozhilalargal Sanga Peravai, Represented by its Counsel Mr. PL.Narayanan, Senior Advocate for Mr.G.Elamaran
27. TNSTC Niruvana Pathukappu Matrum Pothu Thozhilalar Nala Peravai, Represented by its Counsel Mr. PL.Narayanan, Senior Advocate for Mr.D.Gopal

..... Respondents / Supporting Unions

Award Passed By the Arbitrator Under Section 10(A) of The Industrial Disputes Act 1947, on 26th March 2018

A. Preamble:

1. The Hon'ble Division Bench of the High Court of Judicature at Madras by Order dated 11.01.2018, while directing the transport corporation employees to resume work immediately, with consent of the Parties appeared before the Arbitral Tribunal appointed Mr. Justice E. Padmanabhan(Retired Judge) as The Arbitrator to adjudicate the following disputes:
 - i. Difference of 0.13 multiplying factor and
 - ii. Date from which it should be applied

The Arbitrator has been directed to proceed in terms of Section 10(A) of The Industrial Disputes Act 1947 and the Rules Framed there-under. The Arbitrator was directed to submit the report within one month from the date of publication of the Notification under Section 10(3A) of The Industrial Disputes Act 1947. The time to submit Award has been extended by four week by the Hon'ble Court on 08.03.2018.
2. Accordingly, Notification was issued by the Government of Tamilnadu in G.O.(Ms). No. 29 Transport (C1) Department dated 01.02.2018 Under Section 10(A1) of The Industrial Disputes Act 1947 appointing Mr. Justice E. Padmanabhan (Retd.) Arbitrator to enter upon, adjudicate and answer the reference with respect to the following two issues:-
 - (i) Whether the demand of the Workmen to have a multiplier factor of 2.57 instead of 2.44 is justified.
 - (ii) If so, the date from which it should be applied.
3. In terms of the said Notification issued under section 10A of The Industrial Dispute Act 1947, the Arbitrator has to submit the report to the Hon'ble High Court within one month from date of publication of the Notification. Accordingly notices were served on all the 46 Trade Unions to appear and take part in the Arbitration proceedings and they were directed to appear on 09.02.2018 at "Disaster Management Hall" Anna Institute of Management Chennai 600 028. On 09.02.2018 all the office bearers of the 46 Trade Union Representatives and their advocates appeared and took part in the deliberation to fix a schedule for filing Statement of Claims and Objections. On behalf the Respondents/ Transport Undertakings/Corporations the Learned Advocate General appeared assisted by Mr. Sai Prasad Advocate. On behalf of the Claimants various Advocates as set out in the cause title detailed below appeared while on behalf of the Trade Unions, who had signed the settlement on 4.1.2015, hereinafter referred as supporting unions for convenience, Advocates as set out in cause tile appeared and took part in this arbitration proceedings.
4. After hearing all the Union Representatives, their representative Advocates and the Learned Advocate General, by a procedural Order dated 09.02.2018, all the Claimants were directed to file their Claim Statement with relied

upon Documents on or before 5.00 pm on 16.02.2018 after serving a copy of the Claim Statement on Mr. S. Sai Prasad Advocate appearing for the Contesting Respondents. So also, the Contesting Respondents were directed to file their Response/ Objection on or before 5.00 pm on 23.02.2018 after serving copies thereof with relied upon documents on all the Claimants or their Counsel.

5. In terms of the Procedural order dated 09.02.2018, the three sides completed their respective pleadings. On completion of the pleadings arguments were addressed by the Learned Counsel appearing on behalf of Claimant Trade Unions. The Learned Advocate General on behalf of Contesting Respondents, Transport Corporations and Supporting Trade Unions. Detailed arguments were addressed on 24.02.2018, 28.02.2018 as well as on 04.03.2018 at the same Venue. Both the parties apart from filing their respective Statement of Claims / Objections filed typed set containing xerox copy of relied upon documents, also cited various pronouncements of the Hon'ble Supreme Court and High Courts in support of their respective contentions.
6. The three Parties are respectively referred as "Claimants", "Respondents" and "Supporting Unions" for convenience the thirty Trade Unions who were agitating and demanding to apply the multiplier factor of 2.57 instead of 2.44, the following Advocates appeared:
 1. Mr. V.Prakash, Senior Counsel.
 2. Mr.Ajoy Khose, Advocate
 3. Mr. S.T. Varadharajulu, Advocate
 4. Mrs. Rama Priya Gopalkrishnan, Advocate
 5. Mr. C.K. Chandrasekaran, Advocate
 6. Mr.K. Elumalai, Advocate
 7. Mr. Deivasigamani, Advocate
 8. Mr. B. Aravind Babu, Advocate
 9. Mr. P.Ganesh Ram, Advocate
 10. Mr. D. Arulraj, Advocate
 - 11.Ms. Mathreyi, Advocate
 - 12 .Mrs. Kala Ramesh, Advocate
7. On behalf of remaining Trade Unions, who claim to represent majority Workmen employed in The Transport Corporations and who signed the settlement with the Employer/ Transport Corporations, and stood by settlement (1). Mr. PL. Narayanan, Senior Counsel, Mr. Balan Haridas, Mr. D.Gopal, Mr. Kathiresan, Mr. G. Elamaram and others appeared and made their submissions contending that a valid settlement stands concluded by the said majority union with The Management of Transport Corporations and the said settlement is binding on all the employees of all the Transport Corporations. On behalf of the Transport Corporations the Learned Advocate General appeared assisted by Mr. S. Sai Prasad Advocate, submitted detailed arguments. Apart from the Learned Counsel appearing for the three sides various Trade Union Office Bearers, who were present throughout all the sittings made their submissions in person representing the members of the respective Trade Unions.

B: Admitted Events and Dates:

8. Before setting out the details of the present dispute, few uncontroverted facts are required to be set out. Admittedly there were earlier twelve wage settlements entered between the Eight Transport Corporations and Trade Union Representatives, inclusive of settlements, during the years 2011, 2013 and 2015 under Section 12(3) of The Industrial Disputes Act 1947 and in terms thereof various demands of the workers were settled and wage revisions were being implemented. Following the earlier three settlements referred above, another settlement was arrived at between the Management of Eight Transport Corporations and 47 Union Representatives on 04.01.2018. It is an admitted fact that this settlement is being implemented and all the Employees of the Eight Corporations are enjoying the wage revision, to be effective retrospectively. It is the specific stand of the 8 Transport Corporations and 47 Supporting Trade Union Representatives, who are Signatories to the Settlement dated 04.01.2018, the said settlement is binding on all the employees of the Transport Corporations, since it was concluded as a result of repeated negotiations held between Majority Employees of the Trade Union Representatives and the 8 Transport Corporations and that

it is binding on all the employees of the Eight Transport Corporations. Though few of the Trade Unions walked out of the settlement talks at the advanced stage and declined to join the settlement which came to be entered Under Section 12(3) of The Industrial Disputes Act 1947 and benefits of which are being enjoyed by all workmen, irrespective of their affiliation to the various Trade Unions.

9. On 19.01.2018 a fare revision was notified by the State Government for all the stage carriages operating in the State after a gap of 7 years. In respect of stage carriages operating in the State an amendment also has been issued to be effective from 29.01.2018. The fare revision of the entire Transport Services operated by the 8 Corporations had been implemented and revised fare rates, as subsequently modified, are being levied and collected from the passengers.
10. It is the common plea of the Claimants that the last wage settlement entered on 13.04.2015 expired on 31.08.2016. On the expiry of earlier wage settlement a charter of demands on behalf of 10 Major Trade Unions were submitted to the Management of the Transport Corporations. On behalf of the Management of the Transport Corporations, negotiations took place on 10 different dates and after last of such negotiations, a settlement Under Section 12(3) had been concluded. However, the said settlement was not signed by the present claimant Trade Unions but signed by majority Trade Unions, whose membership is 70% of the employees. The settlement came to be concluded on 04.01.2018; it is contended to be not binding on the workers represented by the Claimant Unions. Hence on 04.01.2018 strike was restored to and the workers struck work, which led to the filing of Public Interest Litigations and various interim orders came to be passed by the Division Bench of the Hon'ble High Court. So also the appointment of the Arbitrator and adjudication of disputes.

C. CASE AS SET OUT BY CLAIMANTS:

11. Most of the Trade Unions, who are not signatory to the settlement have filed the Statement of Claim in the present proceedings and most of their contents are common. It is contended that the wage of the workers of Transport Corporation came to be revised once in three years based on Industrial Principles. The expired wage settlement is the 12th Settlement and negotiation were in progress for the 13th Wage Settlement. According to all the Claimants "In the 12th wage settlement, the pay band concept was introduced with the additional component of grade pay following the practice in the Government Departments for Government Servants. As far as the adoption of the Pay band is concerned, the Pay band is based on negotiation, as also the Grade Pay. The concept of Pay Band and Grade Pay was introduced in the 6th Pay Commission by the Central Government, which was adopted with effect from 01.01.2007 which were followed by State Government and subsequently by Public Sector Undertakings.
12. The Central Government adopted the 7th Pay Commission recommendations and implemented the same with effect from 01.01.2016 and the State Government adopted the same with effect from 01.01.2016. However the monetary benefits were given with effect from 01.10.2017 only. The concept of multiplier introduced in the Central 7th Pay Commission, namely the multiplier factor adopted and followed by the Central Pay Commission being 2.57. The State Government also adopted the same Multiplier Factor, namely 2.57 for the State Government Employees. As far as Industrial undertakings of the State Government are concerned, it is claimed that the State Government adopted 2.57 as the "Multiplier Factor" in respect of TANGEDCO, TNHB, TNWC etc.,"
13. It is also pointed that the Central Pay Commission has given reasons for 2.57 as the Multiplier Factor, which reasons were adopted by the State Government by virtue of implementing the recommendations for its employees with effect from 01.01.2016, with monetary benefit with effect from 01.10.2017. So the rationale behind 2.57 as Multiplier Factor is an acceptable rationale by the Government and being implemented for all its employees and workers of local bodies. The multiplier factor of 2.44 is not just a figure from thin air, having no rational basis and such multiplier factor has been recommended by the 7th Pay Commission. It is respectfully submitted that even in respect of the 2nd to 9th Opposite Party Transport Corporations employees are concerned, except for the Drivers, Conductors and Technical Workers and Administrative staff upto Superintendents and above, i.e 13 categories, the Respondents are adopting 2.57 as the "Multiplier factor".
14. In respect of the Government Transport Corporations, the State Government issued Government orders bringing the categories mentioned therein (in all 13 categories) for giving Government pay scales. Thereafter out of the 13 categories under the Government order, in respect of 8 categories, the Government adopted Pay scale and paid arrears to said employees on 05.02.2010. Only 4 categories alone, were not extended the Government scale of pay viz. the workmen category in Administration, Technical sides i.e Drivers and Conductors.
15. The Government, namely the 1st Opposite Party and its instrumentalities have to conform to the mandate of Article 14 of The Constitution of India, which is to treat its employees equally, that is , to apply 2.57 Multiplier

Factor for all its employees with effect from the same date, namely from 01.01.2016. In fact the Government has implemented the same, though under the disputed document, namely the alleged settlement dated 04.01.2018 in respect of Dearness Allowance alone. There is no rationale for not extending the said date for extending the benefit in respect of pay. The choice of the factor 2.44 is arbitrary, discriminatory, irrational, unjust, unfair and violative of the fundamental rights, namely the right to equality under Article 14 of The Constitution of India guaranteed to the Drivers, Conductors, Technical Workers and Office Staff (From Clerical to Superintendent level) of the Government owned Corporations.

16. The Government namely the 1st Opposite Party and its instrumentalities have to conform to the mandate of Article 14 of The Constitution of India which is to treat its employees equally, that is, to apply 2.57 Multiplier Factor for all its employees with effect from the same date, namely from 01.01.2016. In fact the Government has implemented the same, though under the disputed document, namely the alleged settlement of 04.01.2018 in respect of Dearness allowance alone. There is no rationale for not extending the said date for extending the benefits in respect of pay. The choice of 2.44 is arbitrary, discriminatory, irrational, unjust, unfair and violative of the fundamental rights, namely the right to equality under Article 14 of The Constitution of India to the Drivers, Conductors, Technical Workers and office Staff (from Clerical to Superintendent level) of the Government owned Corporations.
17. The Government cannot rely on the alleged settlement of 04.01.2018 to justify the discrimination for three reasons:
 - A. It the Government cannot violate Article 14 directly, it cannot do so indirectly, by means of an alleged Settlement and such conduct would amount to malice in law.
 - B. The Government namely the owner of all State Owned Corporations (Opposite Parties 2 to 9 herein) has agreed to Arbitration and it has to be taken to that extent that the Government has opened the issue of Multiplier factor to be decided by the Hon'ble Arbitration Tribunal. Therefore the Government is estopped from insisting the 2.44 factor on the basis of the alleged Settlement dated 04.01.2018.
 - C. The alleged Settlement of 04.01.2018 has not been signed by persons who had due authorization to sign such a settlement and in any event it cannot be treated as a settlement under Section 12(3) of The Industrial Disputes Act 1947.
18. The anticipated plea on the part of the Government and the State owned Corporation is that the State Transport Corporations are running at loss. This plea of loss does not become of a Welfare State. This history of the transport service has to be taken into consideration for evaluation of the plea. Originally when the State of Tamil Nadu was called the Madras State, the Madras State Transport Department directly operated the Bus Service in the city of Chennai and also operated its Express Bus service to different parts of the State. In other words the State itself undertook the responsibility of public transport as far as the commuting by buses are concerned.
19. So at that point of time, the commuters used to pay for the transport by purchasing tickets and any deficit in finance was supported by the State and the State used to step in to ensure smooth bus transport service without burdening the commuters, who invariably hail from middle class, lower middle class and poorer sections by increasing the cost to avoid loss to the department. Thereafter the Government took a policy decision to render the same service through Government Companies owned by it to give certain autonomy for functioning of the Corporations and to ensure specialized supervision of the service without it being part of the Department.
20. The Government cannot reason like a private party and talk about loss and profits, forgetting its obligation to ensure public transport at affordable cost to the members of the public. For this purpose the State Government is supported by such programs as JNNURM, etc.. If loss is a plea, then the Government has to justify before the Hon'ble Arbitration Tribunal as to how it could afford 2.57 multiplier factor for all the other categories, except the categories namely Drivers, Conductors, Technical Workers and Office Staff from Clerical to Superintendent level.
21. The Principles governing the wage fixation indicated by the Hon'ble Supreme Court of India reads thus: "... (i) Condition of the wage scale prevalent in the company. ... (ii) The wage packet as a whole of each earner in the company with all amenities and benefits and its ability and potency to cope with the economic requirements of daily existence consistent with his status in society, responsibilities, efficiency at work and industrial peace. (iii) The compulsive necessity of securing social and distributive Justice to the workmen. ..." So that has to be in terms of justice, equity and the constitutional mandate, in the same proportion of increase and not a discriminatory multiplier factor.
22. A study has been made by a committee comprising of three former Ministers of Transport, namely Mr. T. R. Balu, Mr. K. Ponmudi and Mr. K.N. Nehru, who had the experience of running the Transport Department, which states

that the state has to step in to bear the financial burden. The Persons who are at the point of immediate delivery of the service are those who are discriminated against and it is neither in public interest nor in the interest of transport service to adopt such a discriminatory practice.

23. The element of Dearness Allowance does not effectively take care of the erosion in the value of the rupee and does not effectively protect the wage of the workers. Even if the 0.13% multiplier factor difference is granted in favour of the workers, their wages have actually still eroded because of the huge increase in the cost of living, which has not been sufficiently addressed by the Dearness Allowance component.
24. Arbitrator may be pleased to hold that the workers are entitled to 2.57 multiplier instead of 2.44 for Drivers, Conductors Technical Workers and Office Staff from Clerical to Superintendent Level with effect from 01.01.2016 with monetary benefits from 01.01.2017.
25. The 25 signatory unions do not have support of majority workers in all the eight State Corporations as alleged and claimed by them by then. Strike was not called for or entered by any group of trade unions including Union No.3 and on the other hand not satisfied with the multiplier of 2.44, the workmen got provoked and went on spontaneous strike from 04.01.2018 evening. In fact, majority of the extent of 90% did not attend to work after 04.01.2018 evening. It was not an indefinite strike as alleged. This would clearly establish that majority workers did not accept the settlement dated 04.01.2018, more particularly with regard to the multiplier of 2.44.
26. The workmen in the Transport Corporations have always been discriminated against in the matter of pay and pay revision. The pay hike given to the workers under section 12(3) settlements was always much lower than that were given to employees in the managerial cadre. The history of pay hike given to the workers since 1977. Only in 1988 and 2007, the employees of the State Transport Corporation, were given a relatively better pay hike. It was only under the settlement of the year 2010 that for the first time, the workmen were given a pay structure on the basis of the Pay Commission's recommendations without the corresponding pay hike. However, subsequently, in 2015(2013 settlement) the Pay Commission's formula of revision of basic pay and grade pay was ignored and instead a hike of 5.5% subject to a minimum of Rs. 135/- was given to the workmen.
27. On account of the differential pay pattern, there is a huge difference between the pay scales of workmen belonging to the categories of Drivers, Conductors, Technical Workers and Officer belonging to the managerial cadres. The glaring difference in pay hike was particularly visible at the end of the duration of the 12th wages settlement on 01.09.2016, which coincided with the time when a pay hike was proposed to the employees in the managerial cadre with effect from 01.01.2016 following recommendations of the Seventh Pay Commission.
28. Only Justification given by the management of the State Transport Corporations for such different methods of the pay revision is that the pay revision for employees in the managerial cadre is done once in ten years whereas it is done once in three years for the Transport workers. The Claimant's primary plea is that the basis of pay revision should be uniform for both workmen and employees in the managerial cadre and that the pay revision should be uniform for all employees in the same industry.
29. The management suddenly on 04.01.2018 entered into a settlement under 12(3) of The Industrial Disputes Act 1947 with the Trade Unions affiliated to the labour wing of the ruling party in the state and certain other small trade unions without even verifying their bona fides and membership. The So called settlement is nothing but a unilateral determination of the terms and conditions of service by the Transport Department. Settlement which is nothing but a unilateral determination of the terms of service by the Government provides for wage revision on the basis of a multiplier of 2.44 for Drivers, Conductors and Technical Staffs in the State Transport Corporations. The workmen of the transport Corporations are aggrieved by the said settlement in its entirety. They are particularly aggrieved by the multiplier of 2.44 which has been unilaterally imposed by them. The multiplier of 2.44 is significantly lower than the multiplier of 2.57 which has been adopted to revise the pay of managerial cadre employees in the Transport Corporations.
30. G.O.Ms. No. 303, Finance (Pay Cell) Department dated 11.10.2017 issued by the Government of Tamilnadu provides for the uniform adoption of the multiplier of 2.57 while fixing the pay of all employees of the Government. Paragraph 7 of the said G.O. reads as follows:

"Fitment factor of 2.57 shall be applied uniformly to all employees while fixing pay of existing employees in the pay matrix, irrespective of their present grade pays or corresponding levels. Pay plus grade pay of an employee at any level as on 10.01.2016(Pay in the Pay Band + Grade Pay) shall be multiplied by a factor of 2.57 for the purpose of fixing the pay in the pay matrix".

31. The State Government has also adopted 2.57 as the multiplier factor in respect of workmen of TANGEDCO, TNHB etc., . The multiplier of 2.57 has also been adopted to revise the pay of the managerial cadre employees of the State Transport Corporations. The multiplier of 2.57 has been adopted both in the case of officers and supervisory staff of the transport corporations beginning from the cadre of Superintendent. The benefit of the multiplier of 2.57 has also been extended to new entrants who are yet to be confirmed in the service of the Transport Corporations.
32. The application of the multiplier of 2.44 would result in substantial monetary loss to the confirmed Drivers, Conductors Technical Workers and Administrative Staff in the working group, who have sincerely served the Transport Corporations for many years. The Claimants submitted that the application of the multiplier of 2.44 would result to great injustice to the workers of the transport corporations, who pour their sweat and blood in the service of the Corporations and work for long hours each day in arduous conditions. The workers should get the benefit of the multiplier from 01.09.2016 as the previous settlement was in force until 31.08.2016.
33. Monetary benefits of 2.57% increment in the basic pay was given to the officers of the Transport Corporations as well as to the newly recruited employees but whereas, the workers who are already employed and working in the Corporation for a long period were not given the 2.57% increment in the basic pay. We request the Hon'ble Mediator to direct the Management of the Corporation to give the 2.57% increment in the basic pay to all the workers, who are already working and also to the newly recruited workers as well as Officers, who are working in the department at one and the same rate namely 2.57% increment in basic pay. It is submitted that we came to know from reliable source that it has been decided to give 2.57% increment in basic pay to the workers as well as officers in the Tamil Nadu Electricity Board and no discrimination has been shown between the workers and officer in the Electricity Board. The workers of Transport Corporation are also doing service for the benefits of the General Public throughout Tamil Nadu.
34. The Management is saying that the Transport Corporation is running at loss. Likewise, the Tamilnadu Electricity Board is also saying that their Board is also running at loss whereas, the Government has entered into settlement with them and by which an increment of 2.57% in the basic pay has been given to the workers as well as the officers of the Electricity Board and so the workers of the Transport Corporation requested that the same consideration should be given to the workers of Transport Corporation also. On 04.01.2018 the TNSTC has offered only a meagre amount of Rs. 17,700/- as basic pay excluding all other allowances without the arrears for the period from 01.09.2016 to 31.08.2017. After negotiation the TNSTC has come forward to pay arrears for the period from 01.09.2016 to 31.08.2017. In simple words the TNSTC has come forward to pay arrears only for 4 months instead of 16 months. It is submitted that the Mis-Management of the TNSTC is the main reason for Non-Execution of new Wage Revision Settlement for the period from 01.09.2016 to 31.08.2017.
35. The act of the Management of TNSTC of imposing the difference of 0.13% factor among its employees is per se illegal, unfair labour practice and against principles of natural justice, due process of law and the provisions of the Industrial Disputes Act 1947.
36. The 7th Pay Commission has recommended a multiplying factor of 2.57 and the same has been implemented for Tamil Nadu Government Employees and Employees of other Government undertakings. So the demand of the Transport employees is based on the said recommendation. Even in the Transport Corporation, staff ranging from Superintendent to the Managing Director, who constitute a 20% of the total staff are being given salary on par with Government staff. However, the same is being denied to employees such as Drivers, Conductors, Technical Staff clerks and Supervisors, who are the backbone for the functioning of a transport Corporation and who constitute about 80% of the entire staff.
37. The 7th Pay Commission has recommended fixing of Rs. 18,000/- per month as the minimum salary to be fixed for an employee at the starting level, taking into account the basic needs of survival of one's family. If the factor of 2.44 as factor fixed by the alleged settlement dated 04.01.2018 as applied, an entry level staff will be able to get a sum of Rs.17,700/- only which is not in consonance with the recommendation of the 7th Pay Commission.
38. The TANGEDCO which is run by the Government entered into settlement with its employees Under Section 12(3) of Industrial Disputes Act 1947, where it provides multiplying factor of 2.57% equally and uniformly and there is no bifurcation among the employees. The management has distinguished the employees by adopting the multiplying factor of 2.44% for permanent employees and 2.57% for new entrants into service. Generally senior employees would be paid higher wages than the junior employees. The management is attempting to pay higher wage to juniors who joined after 01.09.2016 having less experience in work. I submit that a normal prudent person would not accept it. Hence it is highly discriminatory.

39. By passing the trade union representing the majority of the workers, who participated in the negotiations including the claimant herein, the management suddenly on 04.01.2018 entered into a settlement under Section 12(3) of The Industrial Disputes Act 1947 with the trade union affiliated to the labour wing of the ruling party in the state and certain other small trade unions without even verifying their bona fides and membership. The so-called settlement is nothing but unilateral determination of the terms and conditions of service by the Transport Department. The State Government has also adopted 2.57 as the multiplier factor in respect of workmen of TANGEDCO, TNHB etc. The multiplier of 2.57 has also been adopted to receive the pay of the managerial cadre employees of the State Transport Corporations. The multiplier of 2.57 has been adopted both in the case of officers and supervisory staff of the transport corporation beginning from the cadre of Superintendent.
40. The settlement cannot be quoted against the Unions as the same was not signed based on the demands and issues raised were not addressed. Hence such an incomplete settlement which was signed under the aegis of the Hon'ble Minister with such extraordinary haste is irrational, unfair labour practice and cannot negate the lawful rights of the workers, as it had not been waived. Hence the claim based on its binding applicability is denied. The Transport Corporation do not have any power to run the administration on their own. They don't have any power to procure buses on their own, introducing bus routes on profitability, fix fares for rides based on increase/market demand, procure materials for maintenance etc., All the decisions are simply taken at the dictat of the State Government especially the Hon'ble Minister for Transport and the Transport Secretary. It is also the matter of record that more than 20,000 Transport Employees in the grade of Superintendent and above and all the other Supervisory Staff are getting the benefits corresponding to that of Government Staff.
41. When the public transport service is used as service to Public and it is a public utility service, under the exclusive control of the Government and the price rise is not even thought of for several years, it cannot be claimed that there is loss due to employees. It is a popular measure, as otherwise the public will revolt in the event of price rise and when transport fare is affected, it has a spiralling effect on all services dependant on the same. It is due to the policy of the State, that the Corporations are suffering losses. The Corporation has chosen to deny parity with Government servants on the ground that the Transport Corporation Employees get additional benefits like bonus, free buses pass etc. as compared to Government Servant and also the fact that the wage revision is of shorter duration in Transport sector as compared to the longer duration in the case of Government Staff.
42. Subsequent to this settlement with other Transport Union which toe the line of the Government in power, they have given 2.57 factor to EB staff which action is arbitrary and discriminatory. When they admit of having 9500 very aged buses which are in worse condition, the plight of workers handling the said vehicles with such an arduous nature of duty should have been fairly considered. Unfortunately, there is neither labour welfare nor is the state aware of I.L.O rights and even judicial approach seems to curb any claim for workers right thinking that the workers are greedy people. It seems that only white-collared employees are entitled to higher pay and perks including the officers, MLAs and Judiciary(i.e. Executive, Legislature and Judiciary) for they alone seem to suffer effect of the spiralling price rise and blue collared employees are treated always like chattels.
43. When the Corporation pleaded that the Government Servants and Transport Corporation's Employees cannot be compared, they cannot apply the logic of 2.44 factor on the workers. In such an event they should follow the Karnataka, Maharashtra etc., as there is no other Government bus services in Tamil Nadu, the comparison with Government Staff which was invented only by the Government should be applied in a fair manner not according to their whims and fancies.
44. The plea of the financial incapacity is also without basis as the Government has raised the bus fares to nearly 60%. Admittedly more than 90% busses are outdated and have outlived their life period. Hence they cannot plead losses, as the buses would have been written off on depreciation principle, in the accounts/financial records long ago. They are extending student concession, senior citizen concession, MLA concession etc., for which the workers have no say in the decision making process. For the brilliant and novel ideas of the higher ups in the management, the Corporation's exchequer has suffered a lot. Also, generally the monetary benefit of wage settlement will be given effect from the date when the previous settlement had expired. This is in vogue in the Transport Corporations from 1977 onwards. In the present settlement dated 04.01.2018, one year arrears has been denied. It is clearly an act of violation of section 25-T and U.
45. Many clauses in the settlement were detrimental to the interest of the workmen. Some of the main demands were not at all resolved and settled. Further, apart from applying a reduced multiplier of 2.44, instead of applying the multiplier of 2.57 as demanded by the unions of workmen for fitment in the revised pay scales, under Clause 1(a) of the settlement dated 04.01.2018, the workmen are not given 40 corresponding revised scales for the earlier 40

pre-revised scales of pay. Only 7 scales of pay, one each for the total 7 groups/categories, that too as applicable to entry level in each group/category, have been provided in the statement. No scale of pay is given for the next higher levels in each group.

46. For the first time, the pay band, band pay and grade pay system, as applicable to Tamil Nadu Government Servants, was adopted in the above settlement dated 22.01.2011, which came into effect from 01.09.2010. In Annexure I to the said settlement, the details of categories and groups, the details of old pre-revised scales of pay, the details of new pay bands and grade pays, have been given. In the said Annexure, the scales of pay have been brought under 9 groups and totally 20 scales of pay, with 20 grade pays and pay bands were provided. The Revised Pay Rules for the Government Servants as per the 7th Pay Commission recommendations were notified by the Government in G.O.Ms. No.303 Finance (Pay Cell)Department, dated 11.10.2017(Annexure-10).
47. By this G.O., pay revision has been given to the Government Servants, with effect from 01.01.2016. In Annexure-I to the said G.O., the Government has notified Schedule-I containing the details of 32 pre-revised scales of pay and 32 corresponding revised scales of pay, that is, by adding the entry level band pay in each of the pay band and grade pay and by multiplying the total amount by the multiplier of 2.57, the corresponding new scales are fixed and notified. Further, for the existing employees, who were in service prior to 01.01.2016, the Government has also notified pay matrices for all 32 scales of pay and grade pay. Thus their earlier band pays and grade pay is now revised and fixed as basic pay. Further, 3% annual increase/increment is provided for 40 years in the matrix. the pay matrices provide for fitment for all the previous 32 grade pays. further, under Schedule-V to the said G.O., the fitment formula is also provided by way of illustrations.
48. The Central Government and in turn the Government of Tamil Nadu has adopted the multiplier of 2.57 only based on the recommendations made by the 7th Central Pay Commission(Annexure-11), for compensating the loss that has occurred due to increase in cost of living and inflation, erosion in money value, etc. therefore the entry level minimum basic pay in Group-C for Central Government Servants has been fixed as Rs. 18,000/-. The same level is fixed as entry level basic pay for Group=C employees of Tamil Nadu Government also. The Government of Tamil Nadu in order to satisfy and fulfil the above object and objective, has uniformly applied the multiplier of 2.57, not only for fixation of the scales of pay, but also for fitment for each pre revised scales of pay.
49. Therefore , when the reason for applying the multiplier of 2.57 is one and the same for all irrespective of the status or category and when inflation, cost of living etc., is one and the same for all, the respondents cannot deny and refuse to apply the multiplier of 2.57 for fixation of scales of pay and fitment to the Transport employees. otherwise, such a treatment would be arbitrary and discriminatory and also it would be violative of and contrary to Article 14, 16 and 39(d) of the Constitution of India. Further, it is also contrary to and violative of the principles of equal pay for equal work.
50. It is relevant that the entire income and revenue of the corporations are earned and the entire passenger transport services throughout the state are operated, only through the operational staffs, with the support of the technical staffs administrative staffs and miscellaneous group employees. The managerial cadre employees, the administrative and technical supervisory category employees, are extended with the same pay and allowance on par and allowances on par with the Tamil Nadu Government servants. That is, they were/are paid and extended with the same pay and allowances and other benefits as provided to the Tamil Nadu Government as per the earlier pay revision as per the 6th Pay Commission recommendations. G.O.Ms. No. 63, Transport Department, dated 05.02.2010 in this regards is filed as Annexure -12. They would get the same pay and allowances and other benefits, on par with the Tamil Nadu Government Servants as per the 7th Pay Commission recommendations also, as provided in G.O.Ms. No. 303, Finance (Pay Cell) Department, and dated 11.10.2017.
51. Therefore when the above categories of employees are also going to get pay revision with multiplier of 2.57, the Respondents cannot deny or refuse to apply the same multiplier to the serving employees at level 2 to 6 in the above mentioned 7 groups and categories. The Transport Employees who are covered 12(3) settlements have not reached the same pay level on par with their counter parts in Government Service, even after signing and reaching 12 previous wage revision settlements which were signed in a span of 38 years in between 1977 and 2015.
52. Unless the scales are equated on par with the Government Servants and the Transport Employees will never reach the salaries being paid to the Government Servants, even though the pay revision is given to the Government servants once in 10 years and pay revision is given to the Transport Employees once in 3 years . therefore the Respondents cannot deny or refuse to apply the multiplier of 2.57 to the transport employees, particularly, when the Transport Employees will get only less amount even the multiplier of 2.57 is applied, on the ground that the wage revision settlements are signed once in 3 years and wage revision is given to the Government Servants only once in 10 years.

53. In any event, the operation of passenger transport services is undertaken by the State Transport Corporations as a welfare measure in terms of the policies and object of the Government of Tamil Nadu, in order to ensure road connection to all villages in Tamil Nadu and to ensure affordable transport service to the public and people belonging to all walks of life, particularly to the poor and downtrodden people in Tamil Nadu.
54. Hence, the Government should come forward to provide all financial assistance and act as a model and welfare state and apply the multiplier of 2.57, instead of and in the place of 2.44, for pay revision and fitment, for all categories of workmen covered and governed by the settlements w.e.f.01.09.2016 and shall pay monetary benefits from 01.09.2016 and they cannot restrict the monetary benefits only w.e.f. 01.09.2017 and deny arrears for period from 01.09.2016 to 31.08.2017, that is for one year, particularly when the workmen have suffered loss due to increase in prices, inflation cost of living etc.

D: STAND OF SUPPORTING TRADE UNIONS:

55. According to the Industrial Disputes Act 1947 under Section 12(3) the salary, other benefits were fixed, by mediation talks with the representatives of the labour union. The previous 12th Pay Commission salary was fixed on 13.04.2015. The period of 12th Pay commission ended on 31.08.2016, so the representatives of 47 Transport workers Unions placed their demand to the Government to start the talks of the 13th Pay Commission. In continuation of that, the Government formed 15 member committee and in addition to that 5 members committee was formed. The settlements talks were held from 07.03.2017 to 04.01.2018. The settlement talks were held more than ten different occasions and was headed by the Hon'ble Transport Minister, Headed by the Principal Secretary of Transport Department, and by Additional Committee, met 11 times. Finally on 04.01.2018 final settlement was arrived at for the 13th Pay Commission. As per the settlement, the Basic pay may be arrived by multiplying with 2.44 and it was accepted by 25 Unions which comprises of majority workers in the Transport Corporations.
56. Our Union signed and agreed all the aspects of the Section 12(3) settlement in reference No. C1/036966/2017 dated 04.01.2018. For the welfare of the transport corporation section 12(3) settlement made on 04.01.2018 is absolute one. The Multiplier factor of 2.44 is fixed and the Government has given correct measure of multiplier to the transport corporation employees comparing to the Government employees pay scales. The pay scale of our Transport Corporation was fixed in the year 2010 and this was not revised in the year 2013 settlement, but a benefit of 5.5% was given to the existing employees, if this 5.5% shall be added with the current 2.44 factors then the actual benefits to the transport employees shall be of 2.57 factor which is the actual demand by all the Trade Unions during the settlement talk. In addition to this, while revising the pay scale for 2016 the scale of pay was revised by applying 2.57 as factor instead of applying 2.44 for newly recruited employees. It is relevant to state that the revised pay scale given to the employees is almost the demand as made by the Trade Unions, and except some demands, the major demands were accepted by the Transport Corporation in the new pay scale and in addition to this the pay scale revision for the government employees are once in ten years, whereas the pay scales revised for the transport employees were once in every three years.
57. Tamil Nadu State Transport Employees Federation(CITU) is a trade union registered under The Trade Union Acts 1926 and its Registration Number is 2468/MDS. It is affiliated to Centre of Indian Trade Unions, shortly CITU. State Transport Employees Unions numbering 20, which are also trade unions registered under the Trade Union Act 1926 and which are functioning at the Regional level, are affiliated to it out of about 1,45,000 employees/workmen employed in 8 state owned Transport Corporations, 32,600 are members of the Claimants/Union No.3. It is one of the three major unions having substantial membership. It is one of the trade unions recognised by the Corporation to act as a collective bargaining agents in the election conducted in the year 1998.
58. Wage revision settlement under Section 12(3) of the Industrial Disputes Act 1947 dated 13.04.2015, was signed for a period of three years from 01.09.2013, which expired on 31.08.2016(Annexure-1). Claimant/ Union No.3 individually submitted a charter of demands containing 68 demands, on 23.08.2016(Annexure-2). Later, the Claimant/Union No.3 jointly submitted the charter of demands, along with 9 other unions on 22.11.2016. After prolonged settlement talks, a valid and binding settlement was arrived at in the entire interest of workmen and it is binding on all the employees of the Transport Corporations.

E. COMMON WRITTEN STATEMENT OF THE RESPONDENT / MANAGEMENT OF TRANSPORT CORPORATIONS:

59. Some of the Unions have filed their claim statements justifying their demand for the additional difference of 0.13 in the multiplier factor viz. 2.57 as against 2.44 as agreed in the settlement dated 04.01.18 and also for retrospective application of such demand (hereinafter collectively also referred to as 'contesting Petitioner Union'), certain other Unions who have entered into a settlement dated 04.01.18, among other things, have sought to justify their stand

of having entered into the settlement with the Respondent Corporations (hereinafter also collectively referred to as the 'supporting unions').

60. The Hon'ble High Court in its order dated 11.01.18 has only referred the specific issues for adjudication by this Arbitrator and hence the Respondents restrict themselves to the frame of reference as determined and decided by the Hon'ble High Court.
61. There are eight State Transport Undertakings (STUs) registered under the then Companies Act 1956. It is submitted that 20,776 buses are being operated by all the eight State Transport Undertakings with a fleet strength of 21,928 carrying about 2.00 Crores passengers per day and the total strength of the employees is 1,38,857 as on December 2017. It is submitted that each of these State Transport Undertakings, being separate Corporations under the provisions of The Companies Act. Each of these corporations maintain separate books of accents and also draw up separate balance sheets / profit and loss account which determine the financial condition of these transport corporations.
62. The major unions enjoy a check off system in which the employee declares his choice of membership and based on this declaration, the Corporations deduct the membership fee and remit to these Unions at such intervals as required by the Union. It is submitted that historically ATP and LPF unions enjoy deduction of annual membership fee on the basis of such check off system. It is submitted that this aspect of deduction of membership fee by check off system based on the written declaration of membership of the individual become as vital factor for determination of the membership of the employees to the Union. It is respectfully submitted that this aspect equally becomes relevant when unanimity is not achieved during the course of the settlement talks. It is submitted that at least from 2012, the ATP Union, enjoys highest majority membership of the workmen employed in the State Transport Undertakings viz. 69.59% while the LPF enjoyed 11.85% membership as is determined by the check off system. It is respectfully submitted that even at the time of commencement of the negotiations for the 13th long term settlement, the ATP continued to enjoy substantial support of the workmen employed in the State Transport Undertakings.
63. It is further submitted that normally the Wage Settlement talks are held between the representatives of the Management and the Trade Unions in various sittings. Once the consensus is reached, the Tripartite agreement is signed between the Management and the Trade Unions in the presence of the Special Deputy Commissioner of Labour. In case, there is no consensus, agreement is signed by the Trade Unions whose strength is in majority and the Management in the presence of the Special Deputy Commissioner of Labour.
64. In the State Transport Corporations of Tamil Nadu, twelve wage settlement agreements were signed and implemented since 1977. while so, the Tamil Nadu Government issued G.O (Ms)No.3 Transport (C1) Department dated 13.01.2017 to commence the talks of 13th wage settlement by constituting 15 members to represent the Management. Two representatives from each of the 46 Trade Unions were called for the 13th Wage Settlement Talks. Ten sittings were conducted before the Hon'ble Minister for Transport along with Additional Chief Secretary to Transport. The sub-committee constituted for 13th Wage Settlement also conducted at least nine meetings with one representative from each Union. During the Sub-committee meetings on various sittings. The Trade Unions insisted on the multiplier of 2.57 which was given to the Government employees in the recent 7th pay commission.

The Management certified that:

- i) The Pay Commission of Government employees was revised once in ten years and for Central Government Undertakings once in five years and for the Electricity Board of Tamil Nadu once in four years, whereas 12(3) wage settlement in the case of Transport employees is once in three years and hence both the multipliers of Government employees and transport employees cannot be the same (2.57).
- ii) After several rounds of discussions, the Management offered a multiplier of 2.44 which is actually equivalent to the multiplier 2.57 for the Government employees which is explained in the oncoming paragraphs of this written statement.
- iii) The Management justified the factor 2.44 which was equivalent to the offer given to the Government Employees and clarified them as follows:

	Government	STU
Assume Pay as on 2010	100	100
Increase given in 2013	0	5.5
As on 2013	100	105.5
Multiplier	2.57	
Pay as on 2016	100 x 2.57	2.57
To achieve 257 factor for STU		257+105.5 -2.44

65. Even this additional commitment to the STUs on account of adopting the factor of 2.44 was Rs.83 Crores on a monthly basis. It is also submitted that the Management had also proposed that the multiplier of 2.57 would be adopted for any fresh entrant, who did not have the benefit of the earlier wage settlement in 2013, thus equitably treating the workmen in the matter of grant of wage increases.
66. During the discussions held on 04.01.18, the contesting Petitioner Union viz 21 Trade Unions namely LPF, CITU, AITUC, HMS, MLF etc walked out. It is submitted that discussions continued with the rest of the 25 Trade Unions, including ATP which constituted 70% of the membership of the workers and pursuant to the same, a settlement under Section 12(3) of The Industrial Disputes Act was signed on the said date in the presence of the conciliation authority, viz. the Spl. Commissioner of Labour.
67. This settlement under Section 12(3) of The Industrial Disputes Act having been signed with the 25 Unions led by ATP Union, represented the substantial majority of membership of the workmen of the Respondent Corporations and inasmuch as these persons have pursuant to elaborate negotiations, in the interest of larger industrial peace and also with a view to ensure that the legitimate interest of the community of the workmen whom they represented are protected, these union representing substantial workforce of the workmen of the State Transport Undertakings, have signed this Settlement under Section 12(3) with their eyes wide open. It is respectfully submitted that this settlement would equally bind the members of the contesting Petitioner Unions, who only represent the minority membership in the State Transport Undertakings. It is thus submitted that the said settlement dated 04.01.2018 is binding on all the workmen of the Respondent Corporations, including those contesting Unions and as such, it would not be open to these contesting Unions to make various demands including demand for additional increases including the increases sought for in the present proceedings, contrary to the said settlement.
68. A perusal of claim statements filed by Unions would reveal that the supporting unions, who command the majority membership have also justified having signed this settlement under Section 12(3) of the Industrial Disputes Act and pointed out that they had indeed agreed to the multiplier factor of 2.44 as the said multiplier factor; together with the increases granted under the settlement in the year 2013 would be resulting in 2.77, which is equivalent to the multiplying factor as adopted for the Government pay scales. 22 Unions led by ATP having entered into settlement under Section 12(3) of The Industrial Disputes Act having not been referred by the Division Bench of the Madras High Court, natural consequence would be that this settlement is equally binding on the contesting petitioner unions and as such the present dispute raised by the contesting petitioner unions deserves to be rejected.
69. Various State Transport Undertakings are independent entities registered under the provisions of The Companies Act, 1956. It is submitted that as already stated the respondent corporations are in the business of providing transportation services to the public at large. It is also submitted that it is well settled that any demand for increase in wages or benefits are governed by the following two fundamental principles, namely (a) the wages that are prevalent in the similar industries in the region; and (b) the financial capacity of the STUS to bear the additional financial burden.
70. In other words, the State transport Undertakings respectfully submit that the fundamental touchstone of recognizing the demand for granting increases in wages and benefits would be the financial capacity of the State Transport Undertakings and it is only if such financial capacity exist, that this Hon'ble Tribunal thereupon would embark upon making a comparison as to whether the STUs that are similar as that of the Respondent are paying the wages and benefits better than that of the State Transport Undertakings. In other words, it is submitted that the financial well being and financial health of the STUs are necessary in order to pay salaries on time and other statutory liabilities and provide the best services to the travelling public who are the key stakeholders in the entire process.
71. The financial situation of the STUs are mentioned herein and indicative of the fact that it is in the midst of a severe financial crisis and several steps are necessary to restore the financial health of the STUs.

- a) The Cumulative losses of the STUs have been steadily increasing from Rs.532.98 Crores in 1995-96 to Rs.2031.19 Crores in 2000-01 to Rs.2496.44 Crores in 2005-06 and then to Rs.6150.95 Crores in 2010-11 and then to Rs.15,319.34 Crores in 2015-16. As on December 2017, the accumulated losses stood at Rs.20,812.63 Crores. Such accumulated losses have led to the severe financial crisis of the STUs and several financial steps are necessary to slowly move them into a sustainable and efficient operation.
 - b) From June 2017, the non-payment of retirement benefits to retired employees and the statutory dues to the working employees became the subject matter of a proceeding before the Division bench of the Hon'ble High Court in W.P 10126 of 2017. Due to the financial crisis in the STUs, a combination of borrowings, ways and means advances and loans together with Governmental assistance was necessary to honour the commitments made in the Hon'ble High Court. It is submitted that the T.N Government sanctioned Rs.2,147.39 Crores during 2017-18 towards the dues of Retired employees and settled in full upto 30.11.2017 and these funds were mostly sourced outside the STUs with varied ongoing commitments.
 - c) It is submitted that due to the financial crunch and need for financial liquidity on an ongoing basis, the STUs have repeatedly been taking loans, advances and overdrafts. On account of this, as on 31.10.2017, 127 properties have been mortgaged and the outstanding loans to Banks and other institutions, as on 31.12.2017, is Rs.12,031.66 Crores.
 - d) Over the years, due to mismatch in income and expenditure, the operational revenue was insufficient to meet the net salary and as a result, salary recoveries could not be credited into the respective heads of working employees. The total dues of this nature to serving employees as on 31.12.2017 is Rs.5,675.85 Crores.
 - e) Due to severe financial crisis, 287 vehicles are kept attached at Courts as on 05.02.2018 due to non settlement of award amount of Rs.28.24 Crores to accident victims. Apart from this, liability towards accident victims has risen to the tune of Rs.649.55 Crores as on 31.12.2017 even after special assistance by Government during 2017-18.
 - f) The monthly pension payable to the retired employees is around Rs.81.85 Crores and for the last three years TNSTC EPF Trust is disbursing the pension amount with funds meant for diesel subsidy / student concession pass reimbursement allotted to State Transport Undertakings for shortfall in the pension amount, as it had no other option. Due to this, the working capital of State Transport Undertakings have been badly affected.
 - g) Further, the overall functioning of the STUs that need to sustain at the operational level requires replacement of the buses that have outlived the asset life. To indicate the numbers involved, over 9500 buses are over eight years old. Purchase of new buses is possible only if the financial strength of the STUs is established to access additional funding. The percentage of expenditure on establishment and staff as on 31.12.2017 is 69% of the total revenue. Hence, the more expenditure that is committed to salary related expenditures will entail a further decrease in fleet and infrastructure related expenses which will be detrimental to basic functioning and efficiency.
72. The Tamil Nadu Government has been providing financial assistance from time to time in the form of various soft loans and subsidies to the STCs and yet, the Respondent STCs continue to bleed in losses. The Respondent STUs crave leave of this arbitrator to refer to the various documents fled along with this written statement in this regard.
73. The Division Bench of the Madras High Court, in proceeding in W.P No. 10126 of 2017 in its order dated 24.1.2017 was pleased to observe as follows:

"36. With the critical financial problems, we are of the considered view that there is absolutely no possibility for the Transport Corporations to wipe out the mounting accumulated arrears of debt and huge statutory payments, to be made to the existing and retired employees recurring loan and interest burden on the State Transport Corporations for the period from 2010 till 2017, due to the financial institutions and Government, from whom loans advised by the State Transport Corporations reflect that State transport Corporations are unable to clear the dues with their resources, the existing bus fare and subsidy from the Government.

37. On a rough calculation of the debt amount shown in paragraph No.7 of the affidavit filed by the Additional Chief Secretary to Government, Transport Department, Secretariat, it could be seen that over a period of 7 years from 2010 to 2017, debt has increased from Rs.2315.85 Crores to Rs.10546.90 Crores showing an average increase of around Rs.1030 Crores, per year. Needless to state that there are statutory interest on the belated payment of retirement benefits.

74. Elsewhere in the said judgment, the Division bench also observed that:

“Loss is perennial question of survival of the State Transport Corporation, appears to be at stake with the escalating load on debt and recurring expenses towards salary and statutory benefits to those already retired, to those who would retire in future and the serving employees chances of recovery, by the Transport Corporations, in distress appears to be remote. From the data furnished, we are of the view that at one stage, the Transport Corporation would might even go to the level of bankruptcy, if appropriate decision is not taken by the State Government”.

75. The fares, after a lapse of more than seven years, were very recently revised, with effect from 20.01.18 which was met with stiff resistance from the members of public and political parties, including those political parties to whom the contesting Petitioner unions owe their affiliation to. It is submitted that subsequently, the fares had to be reduced on 29.01.18.
76. In this fare revision, there has been a drop in occupancy due to change in passenger behaviour. Normally, such drop in occupancy will prevail for at least one or two years as experienced earlier. It is submitted that a comparative analysis of the revenues for the period from 01.02.18 to 18.02.18 with the similar period last year reveals an increase in revenue of only 10.55%. Although this is a small increase in collection, this increase is hardly sufficient to meet the several dues and liabilities that need to be settled and which have been highlighted in the foregoing paragraphs. On account of the 2.44 increase due to the current wage settlement, the monthly additional financial commitment is Rs.83 Crores and the consequent annual additional financial commitment is nearly Rs.1,000 Crores. It is thus submitted that this increase in revenue, as it stands presently, would hardly be sufficient to meet the continuing losses, let alone wipe out the accumulated losses of the various STUs in any foreseeable future.
77. The Government Servants, in respect of whom the multiplier 2.57 has been adopted are granted increases once in ten years, whereas the workmen employed by the STUs are granted increases in wages and benefits once in three years. Likewise, as already pointed out in the foregoing paragraphs, the various conditions of service of the workmen of the STUs are far different from that of the Government Servants and as such, the workmen of the STUs are entitled to various other benefits such as Bonus, Canteen, Bus Pass, Five Reviews which are the benefits enjoyed by the Transport workers, all of which are not provided to Government employees. In any event, the workmen of the Respondent Corporations could not be compared with that of the Government employees.
78. Considering the base year as 2010 which is treated as a multiplier factor of 1.00, then in 2013 wage settlement, an increase of 5.5% was granted to the workmen of STUs. The 5.5% increase translates as a multiplier factor of 1.055. Therefore even prior to the current settlement, the factor of 1.055 has been implemented and increases in wages granted on that basis.

79. The 2.44 factor as derived is as follows:

	Government	STU
Assume Pay as on 2010	100	100
Increase given in 2013	0	5.5
As on 2013	100	105.5
Multiplier	2.57	
Pay as on 2016	100 x 2.57	2.57
To achieve 257 factor for STU		257+105.5 -2.44

Thus, when the existing pay percentage at 105.5 which increase was granted under the Settlement of the year 2013, is multiplied by the resultant factor 2.44 and the effective multiplier factor results in 2.57.

80. The Government Employees benefit from a factor of 2.57 once in ten years whereas the wage settlement for STUs is once in three years. In other words, it would not be in any manner justified for the contesting Petitioner Unions to compare the multiplying factor of 2.57 alone, without relating the various other factors, which are vastly different from that of the Government employees.
81. The contesting petitioner unions have not explained as to the basis for arriving at the increase in pay hike at 2.57, it appears that the contesting Petitioner Unions have been inspired by this similar increase granted to the Government employees. In this context, it is submitted as follows:

- a) Increases in the wages and benefits of the Government Employees are granted once in ten years;
 - b) The employees of the various transport corporations are entitled to Bonus, Canteen, Bus Pass, Five Reviews etc., which a Government employee is not extended.
 - c) The wages and benefits of the workmen of transport corporations are historically at least from the year 1977 increased once in three years, similar to that of the practice prevalent in the industrial sectors.
82. Another contention has been advanced by the contesting petitioner unions in order to justify the increase from 2.44 to 2.57 is that while the employees in the category of superintendent and above in the respondent STUs as well as new entrants further employed in the respondent STUs after 2016 have been given the benefit of the multiplier factor of 2.57, the workmen of the Respondent STUs have not been granted the similar benefit and which is violative of Article 14 of the Constitution. The contesting unions have also pointed out that within the Corporations, the employees will have to be treated equally in the manner of grant of increases and thus, it is necessary for adopting 2.57 as multiplier for the Transport Corporations. Likewise, the contesting unions have also pointed out that the other sectors, namely TANGEDCO, TNSP have been given the benefit of increases in wages by adopting 2.57 as multiplier.
83. The Respondent STUs submit that the claim of the contesting unions on the face of it is riddled with contradiction for the following reasons:
- a) As already pointed out the employees belonging to the category of Superintendent and above have been given the benefit of wage increases on the multiplier of 2.57 in view of the fact that unlike the workmen of the STUs, increases are granted only once in ten years. However, the workmen are governed by settlement and these persons are granted increases under the settlement entered into between the workmen of the respondent STUs are not extended to the Government employees including those categories of persons.
 - b) It may not be out of context to point out that this section of the employees who are outside the purview of the settlement and who are being granted the increases as is applicable to the State Government Staff by adopting the multiplier of 2.57 constitute hardly about 3% of the total workforce of the STUs. In any event, as pointed out the workmen who are being granted by increases in terms of the settlement between the union and the respondent STUs once in 3 years at least from the year 1977.
 - c) The fresh entrants, as already pointed out, the Respondent STUs have indeed taken into account the fact that these fresh entrants appointed after 2016 did not have the benefit of the increase so granted to the workmen pursuant to the 12th Wage Settlement in the year 2013 and therefore have been granted the benefit of multiplier of 2.57. In fact, this only justifies the stand of the management that the respondent STUs are indeed ensuring equitable increase to the fresh entrants as well as the experienced workers in the settlement dated 04.01.18.
84. It is submitted that the contesting petitioners while drawing a comparison between the officers and the workers in the said statement, the said Unions have taken the gross emoluments while arriving at the percentage of increases referred in the pay commission, as regards the workmen of the STUs, the percentage of increases is only based on the basic pay, without reckoning the various allowances which are calculated on the basis of a certain percentage of the basic emoluments.
85. One of the contesting unions has pointed out that the wages under the settlement if applied would result in reduction of wages as compared to the earlier reason and hence, in that process has sought to justify the comparative analysis of the calculations also has been provided in this regard. It is submitted that equally this plea of the said contesting unions is without any basis for the following reasons. The respondent has produced a tabulated statement showing the differential increase of certain sample employees, prior to and after the settlement along with the typed set of papers, together with the actual payslips issued to the respective workmen, which would clearly indicate that the said plea of the said contesting union is only based on conjectures and surmises.
86. In this context, the respondents submit as follows:
- a) There is no dispute that the settlement has been brought into force from 01.09.16 upon expiry of the earlier settlement on 31.08.16.
 - b) There is no dispute on the fact that it is only the payment of arrears that has been granted with effect from 01.09.17.

- c) There is also no dispute that as regards the Government Servants, though the increases were granted with effect from 01.10.2017, arrears were not paid for four months are indeed to be paid to the workmen of the STUs as calculated from 01.09.17.
 - d) It is not in dispute that though the settlement was signed on 04.01.18, arrears for four months are indeed to be paid to the workmen of the STUs as calculated from 01.09.17.
87. The State Transport Undertakings and their inability to even bear the increases which has since been granted under the settlement dated 04.01.18. However, notwithstanding the same, the Respondent STUs have indeed granted increases in wages and benefits under the settlement dated 04.01.18. It is submitted that the financial burden may be extremely difficult, if not impossible, to bear without slipping into a further deep financial mess and debt trap.

F. SUMMARY OF CLAIMANTS CONTENTIONS

88. With respect to the pleadings extracted above, it is to be recorded that almost all the Claimants and their Counsel repeatedly made their detailed submissions in common. Some of the Counsel for the claimant submitted arguments in addition to arguments advanced by others including senior counsel. At any rate, the pleadings are identical and arguments are also identical in every respect and as were addressed during sittings.. The claimants and their Counsel persisted in their arguments to claim benefit of the multiplier factor of 2.57 while further contending that they should not be discriminated as against the employees of TANGEDCO and Employees of Tamil Nadu Civil Supplies Department and those who have been appointed recently in the respondent Transport Undertakings and after the earlier settlement and also the supervisory staff in the employment of the respondent Transport Undertakings.
89. The financial condition of the respondent transport undertakings, even as has been fairly stated by almost all the Counsels appearing for the Claimants, is admittedly precarious facing financial issues and in deep red. It is the contention of the Claimants that the settlement entered between majority unions / supporting unions and the respondent undertakings are not binding on the present claimants and trade unions numbering 25. Even though the settlement was entered on 4.1.2018, as claimed to have been entered between the respondent employer and trade unions representing the majority employees, it was further contended that the claimants and their members should not be discriminated and they should be treated on par with government employees and they are entitled to the benefits of multiplier factor of 2.57 in any event.

SUBMISSION OF SUPPORTING MAJORITY UNIONS

90. In support of the above submissions, Mr. Balan Haridass, Advocate, and Mr. PL. Narayanan, Senior Counsel and other counsel urged that the settlement entered u/s 12 (3) of The Industrial Disputes Act, 1947 is binding on all the workmen and in fact, the members of the claimant trade unions have accepted and are enjoying the benefits under the very said settlement. It is also pointed that the check off system undertaken in terms of the earlier orders of the Hon'ble High Court still holds good and hence the settlement concluded on 4.1.2018 is a binding settlement in terms of Section 18(1) and Section 12(3) of the Industrial Disputes Act. The settlement entered on 4.1.2018 was arrived at after conciliation lasting more than ten days and unions representing majority employees have signed the settlement and accepted the multiplier factor of 2.44 as just, fair and reasonable on facts as it works out to 2.57 multiplier.
91. Mr. PL. Narayanan, the Learned Senior Counsel appearing for the majority Supporting Unions who signed the settlement elaborated the history of earlier thirteen settlements concluded and benefits enjoyed thereof by all workmen entitled to seek for any revision in wages in the respect of wages arrived at in the settlement, which is binding on them during the currency of the settlement. Both the parties have relied upon Annexures filed by them in support of their respective contentions and also relied upon various pronouncements of the Hon'ble Supreme Court of India and Hon'ble High Courts, few of which will be rejected, if necessary.
92. The Learned counsel appearing for the trade unions representing the majority employees contended that the multiplier factor of 2.44 is well justified as there has been revision of wages once in three years and it is not their case as if there were no revisions in wages continuously for 10 years or thereabout like the Government Servants. It is also contended by the said unions representing majority employees that after detailed negotiations spreading over more than 10 days, settlements came to be entered with the respondent management, in the interest of the employees as well as taking into consideration of the financial position of the respondent undertakings.
93. Majority of the trade unions who have signed the agreement fairly contended that the said settlement concluded on 4.1.2018 before the Commissioner of Labour in terms of Section 12(3) of the Industrial Disputes Act is binding on the claimants as well.

SUBMISSION OF CONTESTING CORPORATIONS / TRANSPORT UNDERTAKINGS:

94. The contesting respondents / management of Transport undertakings contended that there has been frequent revisions in wages i.e once in three years. Though there was time gap, effect was given on a regular basis of three years or the revision has been given retrospective effect from the date of expiry of the earlier settlement. The contesting respondent / management contended that whatever revision of wages which has been agreed and paid is beyond the financial capacity and financial position of the respondent undertakings. It is pointed out that factually the financial capacity is so precarious and it is (i) unable to pay pension to the retired employees, (ii) unable to pay provident dues, (iii) unable to pay compensation awarded by accident claim Tribunals, (iv) unable to replace the worn out buses, (v) unable to maintain the operations, (vi) unable to avoid attachment of buses by third party claimants (vii) all its assets have already been either mortgaged or pledged with Bankers and other institutions and (viii) they are not in a position to service the debts by paying interest or instalments thereof.
95. Though the Government has given guarantee and promised reimbursement of free passes to students, and school going children and others, the operating cost could not be met and daily losses being incurred in the range of several crores by almost all the respondent Corporations. The contesting respondent / corporations, though are State Government Transport Undertakings, they are financially crippled and are in deep red. The contention that the claimants should not be discriminated as against other employees of State Government or that of other undertakings is untenable, factually incorrect, ill-conceived and the plea of discrimination advanced on behalf of the Claimants is absolutely devoid of merits and substance as well.
96. It is also an admitted fact that for several years, there has been no revision of fare and only very recently the State Government notified revision in fares and there has been fall in passenger traffic which necessitated reducing the fare even within a few days of its revision. It is also not in dispute that the cost of diesel, maintenance, staff etc has been mounting up staggeringly, contributing to increase in loss with the result the respondent corporations are ever in liquidity crunch and they are not able even to manage its day to day affairs. The Secretary to the Government, Mr. P.W.C. Devidar, I.A.S., who attended the hearing on all days made further disclosures with respect to the financial conditions of the respondent transport undertakings in addition to the arguments advanced by the Learned Advocate General, on behalf of the Transport Undertakings, which shall be referred later.
97. The respondent undertakings also placed copies of their balance sheets and very many statements to show their heavy financial indebtedness and their present precarious financial condition and their glaring inability to pay even statutory dues. While advancing arguments on behalf of the contesting respondent undertakings, the Learned Advocate General contended that by earlier settlement made once in three years and the recent settlement concluded on 4.1.2018, the claimants are already given benefit in the multiplier ratio of 2.57 cumulatively and therefore in the present settlement, earlier placement and grade and basic wages agreed and through settlements once in every three years or thereabout. It is clear that the present fixation at 2.44 is very much justified, fair and more reasonable it really aggregates to 2.57 multiplier factually no revision in pay is warranted and more so when the financial position of the respondent undertakings will not at all permit any revision as claimed by the workmen, much less to have multiplier factor of 2.57. The multiplier factor of 2.44 adopted is well justified as it factually works out to 2.57 multiplier. It is also contended that the capacity to pay is to be taken into consideration. Merely because the respondent undertakings are government undertakings and are discharging certain obligations to the society, it does not mean that the respondent undertakings are ever to be debt ridden passing through deep financial crisis. It was also contended that the earlier settlement concluded on 4.1.2018 is by and on behalf of majority unions and it is therefore binding on the members of the present claimants and all their members.

H. POINTS FOR CONSIDERATION IN DECIDING THE DISPUTE

98. In the light of the respective pleadings and contentions and various legal pleas advanced, the following points arise for consideration:
- (1) Whether the contesting respondent undertakings have the financial capacity to pay revised scale of pay, as demanded by claimants, than what has been agreed to in the Settlement dated 4.1.2018? or even to pay the scale of pay agreed to in terms of the said settlement concluded on 4.1.2018?
 - (2) Whether the settlement entered on 4.1.2018 under Section 12 (3) of The Industrial Disputes Act, 1947 earlier on 6.2.2008, 22.1.2011 and 13.4.2015 is binding on all the employees of the respondent transport undertakings?
 - (3) Whether the plea of discrimination advanced by the claimant vis-a-vis the employees of TANGEDCO, Tamil Nadu Civil Supplies Corporation and the recent appointees of the Transport Undertakings with revised wages of 2.57 multiplier is sustainable on facts?

- (4) Whether de horse the settlement concluded on 4.1.2018, the claimants and the workmen whom they represent are entitled to receive benefits of multiplier factor of 2.57? If so, from which date and to what consequence?
- (5) To what relief the parties are eligible or entitled to?

The above points are framed for consideration taking into consideration the entire contents of claim statements and written objections filed by respondents and various contentions urged during hearings.

99. It is well accepted that the respondent transport undertakings are public undertakings serving the cause of all sections of the General Public. In fact, there has been no revision of bus fare consistently ever since 2011 and after a lapse of seven long years, it is rightly pointed out by the contesting respondents that the fares were revised as per orders of the State Government but reduced after nine days and they are under severe financial crisis. All the transport undertakings are under severe financial crisis and the State Government had to come to their rescue every now and then.
100. Even the revision of fares came to be slashed immediately after implementation. The year-wise profit/loss of the respondent undertakings culled out from their Balance Sheets evidently show the consistent loss as depicted in the following table:

YEARWISE PROFIT / LOSS

YEAR	LOSS FOR THE YEAR Rs. in crores	CUMULATIVE LOSS Rs. in crores
Opening Balance		-2,496.44
2006-07	-281.81	-2,778.25
2007-08	-379.57	-3,157.82
2008-09	-723.15	-3,880.98
2009-10	-734.71	-4,615.69
2010-11	-1,535.26	-6,150.95
2011-12	-1,791.64	-7,942.59
2012-13	-856.53	-8,799.12
2013-14	-1,265.98	-10,065.10
2014-15	-2,653.99	-12,719.09
2015-16	-2,600.25	-15,319.34
2016-17	-2,981.57	-18,300.90
2017-18 (Upto Dec. 17)	-2,511.72	-20,812.63

101. The loss is mounting up steadily and the cumulative loss incurred by the respondent transport undertakings till now is in the order of Rs.22,000/-crores. Though a comment was made with respect to the provision for depreciation in the Balance Sheet for the respondent Corporations, the accumulated losses sustained continuously since 2006-07 is not in dispute. The entire contents found in the statement of the Contesting Respondnets is not controverted in this respect.
102. The Transport Secretary appearing in person, during the course of his submissions, brought to the notice of the Arbitrator the following admitted facts.
- the respondent undertakings are fastened with huge arrears to the tune of Rs.330 crores towards various statutory dues, benefits such as pension, gratuity, interest etc. From January 2018, for non-payment of various benefits that have accrued in terms of various orders of adjudication passed by Courts
 - the respondent undertakings are facing not less than 400 contempt petitions for their inability to pay the statutory dues and other dues payable in terms of court orders.
 - As on 30.11.2017, the arrears of gratuity payable is in the order of Rs.750 crores
 - there is no resources to discharge the said liability. Consequently, the respondent undertakings raised loan to the tune of Rs.750 crores with liability to pay interest on the guarantee given by the State Government.
 - Even for payment of wages in terms of Settlement concluded on 4.1.2018 i.e 0.13 ratio, additional sum of Rs.268 crores is required per annum and

- (vi) Arrears of Rs. 996 crores are to be paid even in terms of the said settlement dated 04.01.2018.
 - (vii) After revision of fare, there was a considerable loss in foot-fall to the extent of Rs.2.44 crores and the revision of fare has to be rolled back due to overall public objections resulting in considerable fall in bus journey.
 - (viii) No fund is available in pension funds and Rs.83 crores from pension fund has to be utilized to pay arrears and it has not been transferred to the corpus of the Trust fund
 - (ix) there is no return or income and no fund is available for clearing the monthly pension payable to the pensioners.
 - (x) The Government has bailed out the respondent undertakings out of humanitarian consideration for the pensioners.
103. It is also been brought to the notice of this Tribunal that more than 10 sittings were held for negotiations and entering into a settlement with the unions. The observation of the Hon'ble Division Bench, in its order dated 24.11.2017 made in W.P No. 10126 of 2017 is heavily relied upon and brought to the attention of this Arbitral Tribunal, with particular reference to the following paras which read as under:
- “36. With the critical financial problems, we are of the considered view that there is absolutely no possibility for the Transport Corporations to wipe out the mounting accumulated arrears of debt and huge statutory payments, to be made to the existing and retired employees recurring loan and interest burden on the State Transport Corporations for the period from 2010 till 2017, due to the financial institutions and Government, from whom loans advised by the State Transport Corporations reflect that State transport Corporations are unable to clear the dues with their resources, the existing bus fare and subsidy from the Government.
37. On a rough calculation of the debt amount shown in paragraph No.7 of the affidavit filed by the Additional Chief Secretary to Government, Transport Department, Secretariat, it could be seen that over a period of 7 years from 2010 to 2017, debt has increased from Rs.2315.85 Crores to Rs.10546.90 Crores showing an average increase of around Rs.1030 Crores, per year. Needless to state that there are statutory interest on the belated payment of retirement benefits.
- Elsewhere in the said judgment, the Division bench also observed thus:
- “Loss is perennial question of survival of the State Transport Corporation, appears to be at stake with the escalating load on debt and recurring expenses towards salary and statutory benefits to those already retired, to those who would retire in future and the serving employees chances of recovery, by the Transport Corporations, in distress appears to be remote. From the data furnished, we are of the view that at one stage, the Transport Corporation would might even go to the level of bankruptcy, if appropriate decision is not taken by the State Government”.
104. These findings and observations speak in volumes about the financial position and day to day affairs. The persistent loss incurred by the respondent transport undertakings and their inability to pay arrears of pension, gratuity, other statutory dues and third party claims are not in dispute and are well within the knowledge of the Claimants as well. In fact, the respondents plainly admit but contend that it is for the State to come forward and pay the wages etc. The balance sheets placed before this Arbitrator also speaks, in volumes, about the financial condition of the respondents and the same will not enable the respondents to pay even the wages that were agreed to be paid in the last settlement on 04.01.2018. The respondents are finding themselves in deep red and everyone has contributed to the present financial distress or predicament of the Transport Undertakings.
105. The contents of para 28 (a) to (g) of the written statements filed by the contesting respondents are not in dispute nor they are controverted by the claimants anywhere in their statement of claim or during their arguments. Para 28 (a) to (g) extracted below for ready reference.
- “28 (a) The Cumulative losses of the STUs have been steadily increasing from Rs.532.98 Crores in 1995-96 to Rs.2031.19 Crores in 2000-01 to Rs.2496.44 Crores in 2005-06 and then to Rs.6150.95 Crores in 2010-11 and then to Rs.15,319.34 Crores in 2015-16. As on December 2017, the accumulated losses stood at Rs.20,812.63 Crores. Such accumulated losses have led to the severe financial crisis of the STUs and several financial steps are necessary to slowly move them into a sustainable and efficient operation.
- 28(b) From June 2017, the non-payment of retirement benefits to retired employees and the statutory dues to the working employees became the subject matter of a proceeding before the Division bench of the Hon'ble High Court in W.P 10126 of 2017. Due to the financial crisis in the STUs, a combination of borrowings, ways and means advances and loans together with Governmental assistance was necessary to honour the commitments made in the Hon'ble High Court. It is submitted that the T.N Government sanctioned Rs.2,147.39 Crores during 2017-18

towards the dues of Retired employees and settled in full upto 30.11.2017 and these funds were mostly sourced outside the STUs with varied ongoing commitments.

28(c) It is submitted that due to the financial crunch and need for financial liquidity on an ongoing basis, the STUs have repeatedly been taking loans, advances and overdrafts. On account of this, as on 31.10.2017, 127 properties have been mortgaged and the outstanding loans to Banks and other institutions, as on 31.12.2017, is Rs.12,031.66 Crores.

28(d) Over the years, due to mismatch in income and expenditure, the operational revenue was insufficient to meet the net salary and as a result, salary recoveries could not be credited into the respective heads of working employees. The total dues of this nature to serving employees as on 31.12.2017 is Rs.5,675.85 Crores.

28(e) Due to severe financial crisis, 287 vehicles are kept attached at Courts as on 05.02.2018 due to non settlement of award amount of Rs.28.24 Crores to accident victims. Apart from this, liability towards accident victims has risen to the tune of Rs.649.55 Crores as on 31.12.2017 even after special assistance by Government during 2017-18.

28(f) The monthly pension payable to the retired employees is around Rs.81.85 Crores and for the last three years TNSTC EPF Trust is disbursing the pension amount with funds meant for diesel subsidy / student concession pass reimbursement allotted to State Transport Undertakings for shortfall in the pension amount as it had no other option. Due to this, the working capital of State Transport Undertakings have been badly affected.

28(g) Further, the overall functioning of the STUs that need to sustain at the operational level requires replacement of the buses that have outlined the asset life. To indicate the numbers involved, over 9500 buses are over eight years old. Purchase of new buses is possible only if the financial strength of the STUs is established to access additional funding. The percentage of expenditure on establishment and staff as on 31.12.2017 is 69% of the total revenue. Hence, the more expenditure that is committed to salary related expenditures will entail a further decrease in fleet and infrastructure related expenses which will be detrimental to basic functioning and efficiency.

106. The above factors which are undisputed speak for themselves and no further proof is required nor any contrary inference could even be drawn or not being factually incorrect. It is also the representation that the respondents are sustaining losses in its day to day operations apart from day today financial crunch. The respondents are trying hard to pay the current monthly wages to their employees and not to speak of paying arrears of pension, provident fund, gratuity and compensation awarded by Motor Accident Claim Tribunals. From the facts set out above, particularly on the financial capacity of the respondent transport corporations, it is clear that it has no financial capacity or capability to pay the revised scale of pay as demanded and not even to pay the wages at the rate agreed in terms of settlement dated 4.1.2018.
107. At the rate as agreed in terms of settlement dated 4.1.2018, the revision of wages sought for and agreed to was by applying the multiplier factor of 2.44. The entire case, as pleaded by the contesting respondent transport corporations is that at their present rate of earning, i.e the daily collections, it will not at all be in a position to pay even wages as agreed to in the settlement concluded on 04.01.2018. The difference between 2.44 and 2.57 = 0.13, the annual additional liability of the respondent corporations, if directed to be paid, will be in the order of Rs. 1281.65 Crores as disclosed by the contesting respondents. The assumption of the claimants that factually they are not being paid 2.57 multiplier when as demonstrated, they are getting the benefit of 2.57 multiplier as pointed out by the respondents. There is no possibility for the contesting respondent corporations to pay wages as demanded by the claimants i.e applying multiplier factor of 2.57. If the multiplier factor of 2.57 is applied, as claimed, it will cast unbearably heavy burden on the respondent undertakings as it is impossible for the respondents to pay the current wages and not to speak of paying arrears of wages, pension, staff liabilities and statutory dues, which they are liable to discharge. Hence, on fact, the respondents have no financial capacity to pay the revised scale of pay as demanded by the claimants i.e applying multiplier factor of 2.57. The wage revision demand over and above what has been agreed in the settlement entered on 4.1.2018 on the difference of 0.13 multiplier for each decimal is obvious as reflected by the contents of the following table.

WAGE REVISION additional monthly / yearly commitment (Rs in crs)

Basic+Grade Pay Multiplier	Total Monthly Salary of Aug'16	Current Monthly Additional Commitment	Annual Additional Commitment
2.44	333.73	83.00	996.05
2.45	333.73	84.86	1018.35
2.46	333.73	86.68	1040.19
2.47	333.73	88.58	1062.96
2.48	333.73	90.45	1085.40
2.49	333.73	92.29	1107.49
2.50	333.73	94.28	1131.36
2.51	333.73	95.92	1151.10
2.52	333.73	97.69	1172.34
2.53	333.73	99.49	1193.83
2.54	333.73	101.41	1216.94
2.55	333.73	103.17	1238.10
2.56	333.73	104.97	1259.61
2.57	333.73	106.80	1281.65

108. The Hon'ble Supreme Court of India in its judgment reported in AIR 1958 SC 578 in the case of Express Newspapers Private Limited vs Union of India and others has ruled as follows:

"That in the fixation of rates of wages which include within its compass the fixation of scales of wages also, the capacity of the industry to pay is one of the essential circumstances to be taken into consideration except in cases of bare subsistence or minimum wage where the employer is bound to pay the same irrespective of such capacity";

109. The Hon'ble Supreme Court of India, in its judgment in the case of AK Bindal Vs Union of India reported in AIR 2003 SC 2189, held, vide para 13, 17 and 19 as follows, laid down while examining an identical case.

13 : The question which arises for consideration is whether the employees of Public Sector Enterprises have any legal right to claim that though the industrial undertakings or the companies in which they are working did not have the financial capacity to grant revision in pay scale, yet the Government should give financial support to meet the additional expenditure incurred in that regard.

17. The 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 share holding 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 (Pyare Lal Sharma V. Managing Director MANU/SC/0428/1989 (1980: LLJ 32 SC)).

18. Since employees of Government Companies are not government servants they have absolutely no legal right to claim that 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, the petitioners 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 revision of pay scales.

19. The contention that economic viability of the industrial unit or the financial capacity of the employer cannot be taken into consideration in the matter of revision of pay scales of the employees, does not appeal to us. The question of revision of wages of workmen was examined by a Constitution Bench in Express Newspapers Ltd and Ors vs Union of India and Ors MANU/SC/0157/1958 : (1961) ILLJ3395 having regard to the provisions of Industrial Disputes Act and Minimum Wages Act and the following principles' for fixation of rates of wages were laid down:

(1) that in the fixation of rates of wages which include within its compass the fixation of scales of wages also, the capacity of the industry to pay is one of the essential circumstances to be taken into consideration except in cases of bare subsistence or minimum wage where the employer is bound to pay the same irrespective of such capacity;

In the same pronouncement the Hon'ble Supreme Court by referring to its earlier pronouncement has ruled as under:

Para 22 :..... It was also held that a simplistic approach granting higher remuneration to workers in one organization because another organization had granted them, may lead to undesirable results and the application of the doctrine would be fraught with danger and may seriously affect the efficiency and at times, even the functioning of the organization, therefore, it appears to be the consistent view of this Court that the economic viability or the financial capacity of the employer is an important factor which cannot be ignored while fixing the wage structure, otherwise the unit itself may not be able to (sic) and may have to close down which will inevitably have disastrous consequences for the employees themselves. The material on record clearly shows that both FCI and HFC had been suffering heavy losses for the last many years and the Government had been giving considerable amount for meeting the expenses of the organization. In such a situation, the employees cannot legitimately claim that their pay scales should necessarily be revised and enhanced even though the organizations in which they are working are making continuous losses and are deeply in red....."

These pronouncements squarely apply to the facts of the present reference and govern the legal and factual position as contended by the Learned Advocate General. No exception could be taken to this contention by claimants in any view of the matter.

110. In its judgment reported in AIR 2003 SC 2189 in the case of AK Bindal Vs Union of India, the Hon'ble Supreme Court of India, after elaborate consideration has laid down as follows:

"In our view, the economic capability of the employer also plays a crucial part in it; as also its capacity to expand business or earn more profits. The contention of Mr. Singh, if accepted, that granting higher remuneration and emoluments and revision of pay to workers in other governmental undertakings and, therefore, the petitioners are also entitled for the grant of pay revision may, in our opinion, only lead to undesirable results. Enough material was placed on record before us by the respondents which clearly show that the first respondent had been suffering heavy losses for the last many years. In such a situation the petitioners, in our opinion, cannot legitimately claim that their pay-scales should necessarily be revised and enhanced even though the organization in which they are working are making continuous losses and are deeply in the red. As could be seen from the counter affidavit, the first respondent company which is engaged in the manufacture of medicines became sick industrial company for various reasons and was declared as such by the BIFR and the revival package which was formulated and later approved by the BIFR for implementation could not also be given effect to and that the medications recommended by the Government of India. to the BIFR in the existing revival package was ordered to be examined by an operating agency and, in fact, IDBI was appointed as an operating agency under Section 17(3) of SICA. It is also not in dispute that the production activities had to be stopped in the major two units of the company at Rishikesh and Hyderabad w.e.f October 1996 and the losses and liabilities are increasing every month and that the payment of three instalments of interim relief could not also be made due to the threat of industrial unrest and the wage revision in respect of other employees is also due w.e.f 1992 which has also not been sanctioned by the Government of India".

111. In the light of the above pronouncements and the law laid down therein by the Hon'ble Supreme Court and on facts recorded above there is no escape except to hold that the contesting respondent / transport undertakings have no financial capacity to pay wages as demanded by the claimants by applying multiplier factor of 2.57 (difference between 2.57 and 2.44). As already pointed out, even the wages agreed to be paid in terms of the Settlement dated 04.01.2018 is rather an impossibility to pay for the respondent transport undertakings, yet, it is obligated to pay wages in terms of the said settlement dated 04.01.2018. Hence this point is answered accordingly.
112. Taking up the next point as to whether the settlement entered on 04.01.2018 under Section 12 (3) of The Industrial Disputes Act 1947 is binding on all the workers employed in all the eight respondent transport undertakings or not. There is no doubt that supporting unions are factually majority unions and competent to enter into a settlement. Admittedly, the settlement came to be entered by the majority unions representing considerable majority workers employed in the eight transport undertakings. Though there is a feeble attempt on the part of the claimant to contend that the settlement has not been entered by a majority unions representing majority workers employed in the respondent undertakings, the supporting trade unions have affirmed that factually they represent the majority workers who are in their fold and as hitherto before they have been entering and signing all the settlements and benefits of which are extended and enjoyed by all the employees of the respondent transport undertakings including the members of the claimant trade union. It is further contended that total number of employees who had struck work during the recent strike declared by Unions is far exceeding the members of the majority union and therefore the settlement concluded is not binding on the claimants. This contention is just referred to for being rejected as

factually not correct. The stand of the respondents deserves to be sustained. Admittedly, the members of the majority unions who are found to be the majority union in the earlier check off being signatory to the present settlement and they represent more than 70% of the employees. Hence, the settlement concluded by the majority unions is binding on all the employees. It is also to be mentioned that in terms of the settlement dated 04.01.2018 the benefits are availed by all the employees including members of the claimant unions as laid down in AIR 1974 S.C 322.

113. In the judgment reported in AIR 1974 S/C 322 (Para 18) Page 139. On fact, no material has been placed by the Claimants to show that the majority union who have signed the settlement are not in majority nor there is anything to show that the settlement is unjust or to be unfair.
114. Further, nothing has been pointed out by the claimants to show that the present claimants / and the unions have lost their majority after the last check off conducted in terms of the orders of this Hon'ble Court. Hence on fact, it is concluded that the settlement entered on 4.1.2018 under Section 12 (3) of the Industrial Disputes Act is binding on all the employees of the 8 transport corporations, on whose behalf, the settlement has been executed on 4.1.2018. This is entered just like the earlier few settlements. Hence, point 2 is answered against the claimants and it is concluded that the settlement concluded on 4.1.2018 is binding on all employees of the Eight Respondent Corporations, including the claimant trade unions and their members.
115. Next, we are to consider whether in terms of settlement entered on 04.01.2018, the salary of workers have been factually revised at par with the multiple factor 2.57. The Government, vide G.O Ms. No. 303 Fin (Pay Cell) Department dated 11.10.2017 directed the multiplier factor of 2.57 is to be applied uniformly to all its employees. This has prompted the claimant to seek settlement by applying the multiplier factor of 2.57 irrespective of earlier settlement and consequently reverse the wages. It is pertinent to point out that all such revision of pay scale came to be notified with respect to the State Government employees, employees of local bodies, revision of pension etc. based on the decision of the Government of India and on the recommendations of the 7th Pay Commission as well as the high level committee constituted by the State Government for the said purpose.
116. The respondents, while pointing out that factually the pay revision with respect to Government employees are being undertaken once in ten years or thereabout or once in four or five years, while with respect to employees of all the respondent transport corporations revision of wages has been undertaken once in 3 years consecutively or thereabout and even revision of wages have been undertaken once in three years or thereabout and even if there is some delay, the Corporations were giving retrospective effect to such settlements entered between the trade unions and the Transport Corporations. In other words, what is being contended by the respondent is that 2.44 factor applied, factually works out to multiplier factor of 2.57 with respect to transport employees as there had been frequent revisions once in three years. Therefore, it is rightly pointed out that the present fitment of wages in terms of interim settlement dated 4.1.2018 factually works out to applying 2.57 multiplier and deserves to be accepted. There are merits in these submissions of the contesting respondents as established by the table extracted supra. It is to be pointed out that it is the contention of the contesting respondents as well as supporting respondents that the Government servants in respect of whom, the multiplier factor of 2.57 has been adopted as per Pay Commission's Notification and are granted increase or revision, once in 10 years while the workmen employed in the State Transport Undertakings, at least commencing from the year 1977, were granted increase in wages and benefits once in three years. The conditions of servants of the workmen of State Transport Undertakings are far different from that of government servants in that the workmen in respect of respondent transport undertakings are entitled to various other additional benefits such as bonus, gratuity, canteen etc while government employees have no such comparable additional benefits. The workmen of transport corporations were getting increase in wages continuously once in three years in terms of the thirteenth settlement concluded from time to time and they are based upon judicial basis in line with pronouncement of judgment of High Courts as well as the Supreme Court. The claimants admitted that dearness allowance has been worked by applying multiplier of 2.57. The new appointees not having the benefit of earlier settlement, their pay has been rightly fixed by adopting 2.57 multiplier.
117. The contesting Transport Undertakings by referring the settlements concluded from time to time and revision of pay made during the years 2010, 2013 and 2015 have demonstrated that the revision of pay, as agreed to and settled in the settlement entered on 4.1.2018 factually works out to multiple factor of 2.57, which is evident from the following table.

	Government	STU
Assume Pay as on 2010	100	100
Increase given in 2013	0	5.5
As on 2013	100	105.5
Multiplier	2.57	
Pay as on 2016	100 x 2.57	2.57
To achieve 257 factor for STU		257+105.5 -2.44

118. The 25 Trade Unions commanding membership of about 70% of workers had entered into a settlement in terms of Section 12(3) of the Industrial Disputes Act while 21 trade unions who are now contesting the present proceedings walked out from the process and talks of settlement. After being satisfied with the present settlement dated 04.01.2018 which factually works out to the multiplier factor of 2.57 in line with continuation of increase in wages under the earlier settlements entered during the years 2010, 2013 and 2015 etc., Thus, in effect, on facts it is also clear that pay revision to all the employees of the transport undertakings has been achieved and fixed at equivalent to 2.57 multiplier as directed by the State Government, following the notifications issued by the Central Government. The allegation of discrimination pointed out with respect to other undertakings of Government of Tamil Nadu does not hold good as they are not identical nor comparable in view of various factors suggested by respondents.

119. Yet another contention of discrimination advanced by the Claimant also deserves to be thrown out in the light of the contents of the following Table:

S.No	12(3) WAGE SETTLEMENT	PAY COMMISSION
1	Driver, Conductor, Technical Staff, Admin. Staff, Foreman and other Miscellaneous Staff	Superintendents, Junior Engineer, Assistant Engineer and Officers.
2	Covered under Section 12(3) of Industrial Disputes Act 1947	Not covered under Industrial Disputes Act 1947
3	Eligible for getting bonus (Rs.16,800) under Payment of Bonus Act 1965	Not covered under Payment of Bonus Act 1965
4	Eligible for getting Double wages if performed duty on festival and national holidays.	Not eligible for such double wages
5	Wage Revision through 12(3) Settlement once in 3 years.	Wage Revision through Pay Commission once in 10 years.
6	As on 31.12.2017, number of employees covered under 12 (3) Wage Settlement is 1,31,218 (97.8% of Total employees)	As on 31.12.2017, number of employees covered under Pay Commission is 2947 only (2.2% of Total employees)

The above table brings to light the benefits given to the employees of the respondent transport undertakings, covered by settlement reached under Section 12(3) of the I.D Act, far outweigh those given to other government employees by the Pay Commission.

120. It is held that the wage scale of employees of the State Transport Undertakings have already been fixed at by applying multiplier factor of 2.57 as a result of several consecutive revisions reached in a span of once in three years. Therefore, statutorily the claimants have already been given the benefit of multiplier factor of 2.57 by virtue of earlier three consecutive settlements as well as the latest settlement concluded on 04.01.2018. Therefore, the claimants are not entitled for any further revision of wages than concluded in terms of settlement entered on 04.01.2018. This point is accordingly answered.

121. The repeated contentions of discrimination between the employees of the respondent transport corporation and other government undertakings i.e Tamil Nadu Civil Supplies Corporation, TANGEDCO etc., it is pointed out that there were no continuous revision of scale of pay once in three years in those undertakings as was entered in the case of transport employees.. That apart, the claimants cannot equate themselves with those employees merely because they are also employees of the respondent State Government Undertakings. It is also pointed out that the other undertakings referred to by the claimants may also sustain losses and have not earned profits. However, those undertakings have revised the scale of pay to their employees by applying the multiplier factor of 2.57 during the

current year while factually, the employees of the transport undertakings have already been given revision in pay scale so that factually they get the multiplier factor of 2.57. This point is also answered in favour of the respondent and against the claimants.

122. It is contended by Mr. V. Prakash Learned Counsel appearing for majority of the Unions / Claimants that "The workers are claiming 2.57 on the basis of equality principle and have cited decisions with regard to implementation of pay commission recommendation without discrimination. The Supreme Court held in *Purushottam Lal and Others Vs Union of India* and another, reported in 1973 1SCC Page 651, at Para 8 and 15; *Laljee dubey and others Vs Union of India* and others, reported in 1974 1 SCC 230 at Para 14 and 15.

On the other hand the Managing Director of the Government Transport Corporations has stated about the paying capacity and the losses accrued to the corporations, and that the workers get wage revision every 3 years as opposed to a government servant getting wage revision once in 10 years. Therefore looking into the past history of wage revision in the transport corporations 6th pay commission recommendations were implemented over a period. This being proceedings under section 10 (A) of the Industrial Disputes Act with the goal being industrial peace and the fact that even after the implementation of the 6th pay commission recommendations as of the expiry of the last wage settlement and the increase given to the transport workers being less, especially grade pay. It would be reasonable, and just and fair to give them under the present settlement a multiplying factor 2.50 which would result in an additional financial burden, but a bearable burden given the fact that the Government Transport Corporations are instrumentalities of the Government of Tamil Nadu implementing welfare measures for different section in respect of bus transport."

123. Even this suggestion of 2.50 multiplier factor made by Mr. V. Prakash, Senior Counsel, is near impossibility in the light of the findings recorded above. By this proposal, there is an attempt to reduce the demand. Yet this difference of 0.06 according to the Table set above will cost Rs.1131.6 crores per annum and such a burden is rather an impossibility for the undertakings.
124. In the result, it is concluded that employees of the respondent State Transport Undertakings have already been actually conferred with the benefit of multiplier factor of 2.57 in terms of settlement dated 4.1.2018 and factually they are not entitled for any further revision of wages as is being demanded by the claimants.
125. This Arbitral Tribunal places on record its appreciation for the interest evinced and valuable assistance rendered by Mr. V. Prakash, Senior Counsel and his colleagues, Mr. P. Ganesh Ram, Ms. Mythrei in extending full co-operation for the expeditious conclusion of the proceedings. So also the valuable assistance rendered by Mr. Vijaya Narayanan, Learned Advocate General, assisted by Mr. Sai Prasad deserves a special mention in assisting this Arbitral Tribunal. Similarly, the valuable assistance rendered by a host of Counsel on record viz Mr. Ajay Khose, Ms. Ramapriya Gopala Krishnan, Mr. S.T. Varadharajulu, Mr. C.K. Chandrasekaran, Mrs. Kala Ramesh, Mr. D. Arulraj, Mr. Deivsigamani, Mr. B. Arvind Babu, and the INGTWF Union Representative, Mr. Elumalai (all appeared for Claimants/ Trade Unions) and Mr. Balan Haridoss, Mr. Kathiresan, PL. Narayanan, Senior Counsel, Mr. D. Gopal, Mr. G. Elamaram, (all appeared for supporting Trade Unions) for their efficient assistance rendered to this Arbitral Tribunal.
126. Before concluding, it deserves to set out shocking facts. Despite having a fleet strength of 20776 buses, 1,38,857 workmen and staff, transporting 2 crores commuters a day, the present position of the eight transport undertakings is so shocking as it has an accumulated loss of Rs.22,000 crores and is unable to pay huge arrears towards statutory dues, arrears of pension, gratuity, third party compensation claims, high indebtedness to the Banks and Financial Institutions and high level breakdowns adversely affecting the smooth and successful operation of the buses. The present financial condition, as represented, is shockingly disproportionate to its assets. Everyone associated with the undertakings so far had contributed for such a situation, which the Transporting Corporations now face. The administration of the undertakings is obviously unable to manage its affairs economically. In the circumstances, it is high time that this Hon'ble High Court may consider intervening and appointing an independent expert body consisting of experts to manage the affairs of the eight transport undertakings and to regulate its functioning as otherwise public interest will suffer.
127. In the result, the Arbitral Tribunal record its findings and conclusion, on the two issues referred as under:
1. The demand of workmen employed in the eight Transport Corporations to revise their wages by applying the multiplier factor of 2.57 instead of 2.44 is not at all justified and deserves to be negated.

2. As the claimants have already been conferred with the benefits in terms of the settlement dated 4.1.2018, which factually works out equally to applying the factor of 2.57, no further benefit or claim is to be conferred on the claimants / Workmen.

Dated at Chennai on this the 26th day of March 2018.

JUSTICE E. PADMANABHAN (RETD.)
Arbitrator.

P.W.C. DAVIDAR,
Additional Chief Secretary to Government.