



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.02.2015

CORAM:
THE HONOURABLE DR. JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR. JUSTICE V.S.RAVI

W.A. (MD) No.90 of 2015
and
M.P. (MD) No.1 of 2015

The Management of Tamil Nadu State
Transport Corporation (Madurai) Ltd.
Rep by its Managing Director,
Bye pass road, madurai-625 010.

... Appellant

Vs.

1.D.Alagarsamy

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

... Respondents

PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order passed by a Learned Single Judge of this Court dated 29.01.2014 in W.P. (MD) No.14816 of 2012.

Prayer in W.P. (MD) No.14816 of 2012 : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus, directing the respondents to take into account the period from 05.09.2000 to 05.02.2010 for calculating pension, gratuity as per the Award dated 24.01.2008, passed in I.D.No.4 of 2003, by the Labour Court, Madurai, as confirmed by this Court in W.P. (MD) No.775 of 2010, dated 21.04.2011 and further directing the respondents to pay the petitioner revised pension benefits and also difference in gratuity payable to the petitioner with effect from 31.01.2011 with reasonable rate of interest.

For Appellant : Mr.A.Jeyaram

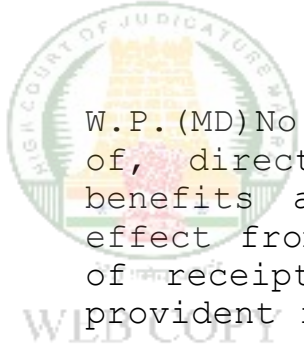
For Respondents : Mr.A.Rahul for R1

JUDGMENT

(Judgment of this Court was delivered by S.TAMILVANAN, J.)

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The Writ Appeal has been preferred, challenging the order dated 29.01.2014 passed by a Learned Single Judge of this Court in



W.P.(MD)No.14816 of 2012 whereby, the Writ petition was disposed of, directing the appellant herein to pay revised pensionary benefits and also difference in gratuity payable to him with effect from 31.01.2011 within a period of 12 weeks from the date of receipt of a copy the order, after deducting the relevant provident fund contribution from the arrears of pension benefits.

2.Heard the learned Special Government Pleader appearing for the appellant as well as the learned counsel appearing for the first respondent.

3.The first respondent / Writ petitioner had filed an affidavit of undertaking dated 01.08.2013 as directed by the Learned Single Judge stating that provident fund contribution for the period from 05.09.2000 to 05.02.2010 would be deducted from the revised arrears of pension benefits payable to the petitioner with effect from 31.01.2011.

4.A perusal of the impugned order would clearly show that the first respondent / Writ petitioner was working as a Driver in the appellant / Transport Corporation and he was dismissed from service on 05.09.2000. Aggrieved by which, he raised an Industrial Dispute in I.D.No.4 of 2003 under Section 2(a) of the Industrial Disputes Act before the Labour Court, Madurai and the Labour Court passed an award dated 24.01.2008 directing the appellant to reinstate the first respondent / Writ petitioner in service with effect from 05.09.2000, with continuity of service, but, without back wages. Subsequently, the first respondent was reinstated in service on 06.02.2010 and retired from service on attaining the age of superannuation with effect from 31.01.2011. However, the period from 05.09.2000 to 05.02.2010 during which, he was suspended and therein, reinstated was not taken into account for the purpose of calculating his pension, hence, he filed the Writ petition.

5.Having considered the facts and circumstances and the award passed by the Labour Court, which reached its finality, the learned Single Judge passed the order whereby, directed the appellant to pay the petitioner revised pensionary benefits and difference in gratuity payable to him with effect from 31.01.2001 as stated above it is seen that the order was passed in view of the undertaking given. Hence, we are of the view that there is no error or infirmity in the impugned order passed by the Learned Single Judge so as to warrant any interference. The first respondent / Writ petitioner is a retired employee and hence, causing delay in settling the amount dues and payable to the employee cannot be justified and we could find no legal grounds to admit the Writ Appeal.

<https://hcservices.ecourts.gov.in/hcservices/> 6.On the aforesaid facts and circumstances and to meet ends of justice, we find it just and reasonable to dismiss the Writ Appeal confirming the order passed by the Learned Single Judge.



7. Accordingly, the Writ Appeal is dismissed. No costs.
Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar

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

+1cc to Mr. A. RAHUL, ADVOCATE IN SR NO. 8533

W.A. (MD) No. 90 of 2015
24.02.2015

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