

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2016

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P. NO. 3723 of 2016

S. Mariya Arulanandan

.. Petitioner

-vs-

The Management
Metropolitan Transport Corporation
Pallavan Salai
Chennai - 600 002.

... Respondent

Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the respondent to pay the pension with arrears of pension from 23.11.2005 to till date of realisation and difference of backwages, retirement benefits including Gratuity, PF and all other attendant benefits taking into account of my service as 26 years forthwith along with the 12% interest per annum till the date of payment and to pass further orders.

For petitioner : Mr. R. Jaikumar

For respondent : Mr. P. Paramasivadosh
Standing Counsel

O R D E R

Mr. Paramasivadosh, learned Standing Counsel accepts notice to the respondent. With the consent of both parties, the writ petition is disposed of, at the stage of admission itself.

2. The petitioner has filed this Writ Petition, for issuance of a Writ of Mandamus, to direct the respondent Transport Corporation to pay pension with arrears thereof, from 23.11.2005 till the date of realisation and the difference of backwages and other retirement benefits including Gratuity, PF and all other attendant benefits, by considering his service as 26 years, along with an interest of 12% per annum.

3. The petitioner would claim that he entered the service of the respondent Management, as a Driver on 03.07.1979 and was terminated from service on 18.05.1994. The Management sought for approval of the order of termination, which was rejected by the order dated 13.07.1998. Thus, it is deemed that the petitioner is continuing in service. Thereafter, the petitioner filed a Claim Petition in C.P. No. 600 of 1999 before the Labour Court, for computing the monetary benefits and the Labour Court passed an order on 16.08.2004. The Management challenged the said order by filing a Writ Petition No. 29193 of 2005, which was dismissed by this Court, by an order dated 06.06.2011. Subsequently, based on another charge memo, the petitioner was dismissed from service on 18.12.2001. Challenging the order of dismissal, the petitioner raised a dispute, which was taken on file by the I Additional Labour Court at Chennai in I.D. No. 551 of 2003. The Labour Court, passed an Award on 26.11.2009, directing the respondent to pay 75% of the backwages and all other attendant benefits, as the petitioner had attained the age of superannuation on 23.11.2005. Against the said Award, the Management had filed a Writ Petition No. 4777 of 2010, which was dismissed and the appeal against that was also dismissed, at the S.R. stage. The petitioner had filed an Execution Petition before the Labour Court in E.P. No.59 of 2011 and the Management undertook to pay a sum of Rs.9,80,000/-, as part payment to avoid attachment. But the Management has paid only Rs.4,29,444/-. In the background of these facts, the petitioner now claims for pension and arrears of pension and other relief. In this regard, a representation has been submitted by the petitioner to the respondent on 31.12.2015. Since, the respondent has not passed any orders, the petitioner is before this Court.

4. In the light of the above facts, this Court is of the view that at this juncture, no positive direction could be granted, since the respondent is yet to take a decision on the petitioner's representation. Hence, there will be a direction to the respondent to consider the representation dated 31.12.2015, of the petitioner and pass orders, in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

5. Accordingly, the Writ Petition is disposed of. No costs.
vr

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

The Management
Metropolitan Transport Corporation
Pallavan Salai
Chennai - 600 002.

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