

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.12.2017
CORAM
THE HONOURABLE Mr.JUSTICE V.PARTHIBAN
W.P.No.7882 of 2010

C.Ekambaram

... Petitioner

Vs

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

2.The Management of Metropolitan
Transport Corporation Ltd.,
Anna Salai, Chennai-2. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, for a direction to revise the pension giving pay protection as per Section 47 of the persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, based on last drawn basic pay of the petitioner for calculating pension as per Rule 15 of Tamil Nadu State Transport Corporation Pension Fund Rules.

For Petitioner : Mr.S.T.Varadarajulu

For Respondents : Mr.V.S.Jagadeesan for R1

: Mr.P.Paramasivadoss for R2

O R D E R

Heard Mr.S.T.Varadarajulu, learned counsel for the petitioner and Mr.V.S.Jagadeesan, learned counsel appearing for the first respondent and Mr.P.Paramasivadoss, learned counsel appearing for the second respondent.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a writ of Mandamus, for a direction to revise the pension giving pay protection as per Section 47 of the persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, based on last drawn basic pay of the petitioner for calculating pension as per Rule 15 of Tamil Nadu State Transport Corporation Pension Fund Rules. "

3. The case of the petitioner is as follows:-

The petitioner joined in the service of the second respondent Corporation as a Conductor on 01.05.1975. On 15.03.2000, he was discharged from service on medical grounds as recommended by the Medical Board of the Government Kilpauk Medical College Hospital, Chennai-600 010. At the time of his discharge, he was drawing a pay of Rs.5010/- as basic pay in the time scale of Rs.3460-75-4210-80-5490. After being discharged from service on medical ground, the petitioner was re-employed as Junior Helper non-ITI in the minimum basic of Rs.3240/- per month, in the time scale of Rs 3240-60-4680 on 28.09.2000.

4. According to the petitioner, when his pay was fixed in the lower post, he ought to have been given pay protection as per Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. According to the petitioner, due to non grant of pay protection, he was made to suffer a loss of Rs.1500/- per month. The petitioner is also said to have retired from service on 31.03.2008.

5. For grant of pay protection, the petitioner has sent a number of representations to the Corporation, but, however, none of the representations has evoked any response. Finally, a representation was sent by the petitioner on 28.02.2010, seeking for pay protection and also for re-calculation of pension and grant of arrears thereon. However, till date, the representations have not been considered by the Corporation. In the said circumstances, the petitioner has approached this Court, seeking issue of writ of Mandamus.

6. When the matter was taken up for hearing, the learned counsel for the petitioner would submit that the Corporation may be directed to dispose of the representation dated 28.02.2010 and other representations made for seeking pay protection to the petitioner, in terms of the Persons with disabilities Act, 1995.

7. At this, the learned counsel for the respondent Corporation cannot have any objection, since the writ petition is disposed of only to direct the Corporation to dispose of the representation on merits and in accordance with law.

8. In these circumstances, this Court directs the respondent Corporation to dispose of the representation dated 28.02.2010, seeking pay protection to the petitioner, at the time when he was discharged from service on medical grounds in terms of Section 47 of the Person with disabilities Act, 1995 and pass considered order on merits. The order shall be passed with a period of 8 weeks from the date of receipt of a copy of this order. The same shall be communicated to the petitioner forthwith.

9. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gsk
To

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

2.The Management of Metropolitan
Transport Corporation Ltd.,
Anna Salai, Chennai-2.

+1cc to MR.P.P.Paramasivadoss, Advocate Sr.No.86555
+1cc to Mr.S.T.Varadharajulu, Advocate SR.No.85703

RJ(CO)
sm:17.1.2018

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