



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Review Application (MD) No.9 of 2017

and

W.M.P. (MD) No.2923 of 2017

The General Manager,
Tamilnadu State Transport Corporation,
Kumbakonam Ltd.,
Maruthupathi, Karaikudi,
Sivagangai District.

... Petitioner/Respondent

Vs.

P.Rajendran

... Respondent/Writ Petitioner

PRAYER: This Review Application is filed under Article 226 of the Constitution of India, praying to review the order of this Hon'ble Court dated 10.01.2017 made in W.P.(MD) No.19516 of 2014.

Prayer in WP(MD). 19516/ 2014 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondent to sanction all service benefits to the petitioner by taking note of the petitioner's initial appointment from 02.09.1974 with continuity of service from the year 1996 and subsequently calculate the pension and sanction arrears of pension and other service and retirement benefits in view of the Award in I.D.No.85 of 2004 dated 15.04.2006 on the file of the Labour Court, Madurai by considering the petitioner's representation dated 12.11.2010 and subsequent representation dated 11.07.2012 within the period stipulated by this Court.

For Petitioner :Mr.K.Sathiya Singh

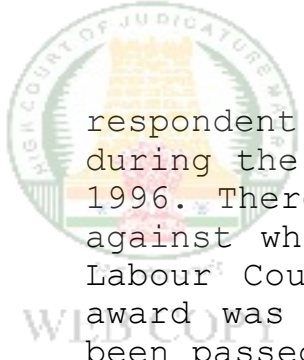
For Respondent :Mr.A.Haja Mohideen

O R D E R

Mr.A.Haja Mohideen, the learned counsel accepts notice for the respondent in this review application. With the consent of both sides, the review petition itself is taken today for final disposal.

<https://hcservices.ecourts.gov.in/hcservices/>

2.Mr.K.Sathiya Singh, the learned Standing Counsel appearing for the Review Petitioner would submit that the



respondent had been unauthorisedly absent for six months period during the year 1980. There again also absent for some time during 1996. Thereafter, he was dismissed from service on 27.08.1996, as against which the respondent raised Industrial Dispute before the Labour Court concerned in I.D.No.85 of 2004, where a compromise award was passed on 15.04.2006, wherein the following order has been passed:

"2.Taken up in advance in the Maha Lok Adalat to-day, Both parties present, Settlement arrived at between both parties. Deputy Manager Legal of the Respondent present. Petitioner present. In terms of settlement the Award is passed directing the Respondent / Management to reinstate the Petitioner with continuity of service and without backwages with 3 years increment cut with cumulative effect."

Pursuant to the said award passed by the Labour Court, the respondent was reinstated on 26.08.2006. Thereafter, he was retired on superannuation on 28.02.2009.

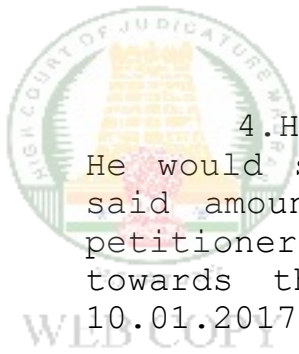
3.The learned counsel appearing for the petitioner would also rely upon the proceedings of the petitioner dated 18.02.2017, whereby the following instruction has been given:

"He has preferred I.D.No.85/04 before Labour Court, Madurai, seeking reinstatement with backwages, continuity of service and other benefits. As per the award of the Labour Court, he was again reinstated into service w.e.f. 28.2.2006 with continuity of service but without backwages. At the time of reinstatement, his basic pay was Rs.6,680/- in the pay scale of 4490-75-5450-80-6520 and as per the order of the Labour Court, he has been awarded with the punishment of 3 years increment cut and he retired from service w.e.f. 28.2.2009.

At the time of dismissal at 27.8.96, he has received employer contribution of Rs.81967/- on 31.1.2003. He has to remit that amount to our management along with interest. The amount to be remitted to our management along with interest on 28.2.2017 is Rs.340425/-. In the case, if he remitted the same, payment of pension will be effected to the writ petitioner.

Thanking You,"

Therefore, according to the learned counsel for the petitioner when the respondent was absent he had not made any contribution towards pension scheme and in this regard some amount has to be remitted by the respondent to the petitioner with interest and as on 28.02.2017 it comes about Rs.3,40,425/-. The said amount even though directed to be remitted has not been remitted. Therefore, unless the said amount is remitted by the respondent, he would not be entitled to receive the benefit of retirement and pensionary benefits. It has been directed by this Court in the order dated 10.01.2017, which is sought to be reviewed herein.



4. Heard the learned counsel appearing for the respondent. He would submit that if at all the respondent had not paid the said amount of Rs.3,40,425/-, the same can be deducted by the petitioner Corporation from out of the amount to be settlement towards the respondent as per the order of this Court dated 10.01.2017.

5. This Court has considered the said submissions made by the respective learned counsel appearing for the parties.

6. The facts above stated has not been brought to the notice of this Court at the time of passing the order in W.P.(MD) No.19516 of 2014. Had these factors have been brought to the notice of this Court, the said order would not have been passed and no one has appeared on behalf of the respondent Corporation in the said Writ Petition.

7. Be that as it may, since a review has been filed now, where these facts were brought to the notice of this Court and the same has not been disputed by the learned counsel appearing for the respondent herein, this Court is inclined to entertain the review petition and disposing the same with the following orders:

The petitioner Corporation shall be at liberty to deduct/adjust the amount payable by the respondent towards the petitioner Corporation and after deducting/adjusting the said sum of Rs.3,40,425/- the remaining amount shall be paid to the petitioner as has been directed in the order of this Court dated 10.01.2017 in W.P.(MD) No.19516 of 2014. Except this modification, the said order dated 10.01.2017 shall stand unaltered.

8. With these modifications the said order sought to be reviewed herein has been reviewed and this review petition is allowed to the extent as indicated above without order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar

To

+1 cc to M/s.K.Sathiya Singh, Advocate in SR.No.12122

+1 cc to M/s.A.Haja Mohideen, Advocate in SR.No.12088

sj

CSL/PN/14.03.2017 :3P/3C

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