



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P(MD) .No.7034 of 2013

U.Ramaraj (Deceased)

R.Kumutham

(Petitioner to substitute in the place of
deceased petitioner as per
order 5/3/15 in MP.1/15)

... Petitioner

Vs.

1.Tamil Nadu State Transport Corporation
(Madurai) Ltd., Dindigul Region,
Represented by its Managing Director,
Bye-pass Road,
Madurai - 625 016.

2.Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Represented by its General Manager,
Dindigul Region,
By Pass Road,
Collectorate Post,
Dindigul - 624 004.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issued a Writ in the nature of Writ of Mandamus directing the respondents (a) to calculate and settle the wages for 18 months from the date of Award on 12.09.2007, till the date of reinstatement on 21.03.2009, treating the period of absence as on duty for the delay caused in implementing the Award and (b) to settle the terminal benefits from the initial date of joining duty on 1.12.1982, till the date of his retirement on 31.01.2010, for 27 years taking into account the non-employment period of 7 years from the date of dismissal on 24.08.2002, till the date of Award on 12.09.2007, also for the purpose of calculation of terminal benefits alone in terms of the Award of the Labour Court in Award No.25/2004 dated 12.09.2007.

For petitioner : Mr.S.Govindan
For R1 : Mr.A.Jeyaram
For R2 : Non appearance

**ORDER**

The petitioner seeks a writ of mandamus and the prayer of the writ petition runs as follows:

"This petition is filed to direct the respondents (a) to calculate and settle the wages for 18 months from the date of Award on 12.09.2007, till the date of reinstatement on 21.03.2009, treating the period of absence as on duty for the delay caused in implementing the Award and (b) to settle the terminal benefits from the initial date of joining duty on 1.12.1982 till the date of his retirement on 31.01.2010, for 27 years taking into account the non-employment period of 7 years from the date of dismissal on 24.08.2002, till the date of Award on 12.09.2007, also for the purpose of calculation of terminal benefits alone in terms of the Award of the Labour Court in Award No. 25/2004 dated 12.09.2007."

2. Heard both sides.

3. The petitioner was removed from service and he was directed to be reinstated without backwages with continuity of service by the award of the Labour Court dated 12.09.2007. The said award of the Labour Court was also confirmed by this Court in W.P.No.3205 of 2008 on 15.11.2010. Thereafter the petitioner made representations to the respondents for payment of his retirement benefits and pension. Since the same was not paid as per the directions of this Court as well as the Labour Court a contempt application was filed by the petitioner in Cont.P.469/2011, by an order dated 19.03.2013 this Court disposed of the said contempt petition with the following observation.

"5. To day, when the matter was taken up for hearing, the learned counsel appearing for the respondent Corporation submitted that commutation of pension of Rs.1,34,934/- has been settled and even earlier, the petitioner has been paid the gratuity of Rs.1,50,594/- by Cheque dated 18.08.2011, provident Fund of Rs.1,92,729/-, by Cheque dated 18.08.2011, and the difference of wages from 21.03.2003 to 31.01.2010, being Rs.57,576/- by Cheque dated 18.08.2011.

6. The learned counsel appearing for the respondent has submitted that the pension has also been paid and he has produced the copy of the written communication given by the Assistant Manager (Legal) of the respondent Corporation dated 24.08.2011 and 17.11.2012. That apart, copies of stamped receipts signed by the petitioner has also been produced before this court.

7. Further, from the proceedings of the Assistant Manager (Accounts) of the respondent Corporation, dated 13.01.2012, it is seen that the petitioner's service was regularized with effect from December 2011 and the pension arrears of Rs.74,330/- for the period from



February 2010 to November 2011 was also paid to the Petitioner along with the pension of December 2011 and the split up pension details of December 2011 has also been given, where the petitioner is getting a basic pension of Rs.2,150/-, Dearness Allowance of Rs.1,645/- and medical allowance of Rs.50/- in all total Rs.3,845/-

8. In view of the above facts, this court is satisfied that the order and direction issued in the writ petition has been complied with."

4. In view of the above observations of this Court, it is clear that nothing remains to be paid to the petitioner. The learned counsel for the petitioner would however contend that there is still a shortfall, he would rely upon a reply given by the Public Information Officer of the respondent Corporation on 29.05.2013 and contend that his pension has been calculated wrongly and he has not been given the benefit of continuity of service from 24.08.2002 to 31.01.2010. I am unable to see any force in the arguments of the learned counsel for the petitioner. The calculation relates to payment of gratuity and since the petitioner has not worked for the period from 24.08.2001 to 31.01.2010, he is shown as ineligible for gratuity. The total period of pensionable service has been taken as 20 years.

5. The learned counsel for the petitioner would submit that the rejection of the petitioner's plea for inclusion of the period during which he was removed from service has effected a quantum of pension. I do not propose to reinvestigate the matter. All questions relating to pension gratuity etc., have been settled by this Court in the order dated 19.03.2013 made in Cont.P.469/2011 wherein this Court has recorded that the learned counsel for the petitioner has accepted that all amounts had been paid. I will be reviewing the order dated 19.03.2013, if I am to countenance to the claim of the learned counsel for the petitioner. In view of the above this writ petition stands dismissed. No Costs.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. Tamil Nadu State Transport Corporation
(Madurai) Ltd., Dindigul Region,
Represented by its Managing Director,
Bye-pass Road, Madurai - 625 016.



2. Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Represented by its General Manager,
Dindigul Region, By Pass Road,
Collectorate Post, Dindigul - 624 004.
+1 CC to M/s. S.GOVINDAN, Advocate, SR No. 16061
PJL
PSM/JC/17.04.2017/4P/4C

W.P (MD) .No.7034 of 2013
20.03.2017