

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.10.2018
CORAM
THE HON'BLE DR.JUSTICE S.VIMALA
W.P.NO.29433 of 2013

G.M.Kulasekaran Petitioner

Vs

1.Tamilnadu State Transport Corporation
Villupuram Division, Registered Office 3/137
Salamedu Valuthareddy Post
Villupuram □ 605 602
rep.by its Managing Director and another

2.Tamilnadu State Transport Corporation
Villuppuram Division, Vellore Region
Vellore-9 rep.by its Managing Director Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to include the period of service from 22.06.1993 to 22.07.1999 by virtue of the award passed by the Industrial Tribunal in Complaint No.17 of 1994 dated 07.09.1998 and consequently direct the respondents to pay full pension and other benefits like computation amount of Rs.1,74,284, Gratuity of Rs.3,21,998/- etc., including arrears of pension for four months from September 2012 to December 2012 within the stipulated time.

For Petitioner : Mr.S.Arokia Maniraj

For Respondents : Mr.Anthony Arockiaraj

O R D E R

This writ petition is filed by the workman, seeking direction to the respondent to include the period of service from the date of dismissal ie., 22.06.1993 to the date of reinstatement ie., 22.07.1999 by virtue of the award passed by the Industrial Tribunal in Complaint No.17 of 1994 dated 07.09.1998 and consequently pay the full pension and other benefits.

2. The facts leading to the filing of the writ petition is that the workman was employed as conductor in the respondent corporation on and from 28.01.1978 and continued to discharge his duties till 31.08.2012. He was dismissed from service on 22.06.1993 and he remained as dismissed employee till he was reinstated on 22.07.1999. The petitioner / workman preferred a compliant before the Industrial Tribunal and the same was allowed on 07.09.1998, directing the respondents to reinstate the petitioner with 50% backwages and all other attendant benefits. Apart from that, postponement of two increments was also ordered. The respondents challenged the aforesaid award in W.P.No.5337 of 2000 and the writ petition was dismissed on 16.02.2007. The order passed by the labour court and the order passed by this court is extracted below.

"Order passed by Industrial Tribunal in Complaint No.17 of 1994

Dismissal of the complainant is not sustainable and the respondent is directed to reinstate the petitioner with 50% backwages and all other attendant benefits.

Order passed in W.P.No.5337 of 2000

Since the writ petitioner has not filed any cross objection before the Industrial Tribunal, this Court is unable to grant any relief, except to confirm the award passed by the Industrial Tribunal, which is impugned in the writ petition. "

3. The workman has been reinstated and entire backwages has been deposited to the credit of the complaint before the Industrial Tribunal and the Industrial Tribunal has invested the amount in the bank as per the orders of this Court. The high court has also directed the workman to seek for payment out of the said amount. Thereafter, the workman has filed contempt petition No.510 of 2008. During the hearing of the contempt petition, the transport corporation has informed the court that there is a resolution of the Board of Directors authorising the Managing Director to pay backwages in accordance with the orders of this Court and revise the salary of the petitioner in accordance with the present pay structure applicable to the employees of the respondent transport corporation. It was also assured on behalf of the respondent that the said resolution will be given effect to within a week's time.

4. Now the question is when the arrears of salary has been paid in accordance with the resolution of the Board of Directors. It is not known as to why the calculation for payment of other attendant benefits was not done in accordance with the resolution of the board of directors. It does not stand to reason why the benefit was reduced and why the workman was driven to approach this Court. The workman is also entitled to calculate of the period from 22.06.1993 to 22.07.1999 for the purpose of calculation of eligibility period for pension, as the Industrial Tribunal has awarded attendant benefits. In reply to the application filed by the petitioner under the RTI Act also, the calculation of pensionable service was shown as 24 years, whereas it should have been 30 years, if the period of dismissal ie., from 22.06.1993 to 22.07.1999 is taken into account. Therefore, as rightly claimed by the petitioner, his claim ought to have been considered, in the light of the order passed by the Industrial Tribunal. Accordingly, the writ petition deserves to be allowed and it is accordingly allowed. No costs. Consequently, connected W.M.P. is closed.

01-10-2018

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Index :Yes / No

Internet : Yes / No

DR.S.VIMALA, J.

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