



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 23.10.2018

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WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P (MD) No.9958 of 2018

V.Muthuvel,
Conductor,
Kathirnarasingapuram,
Rajadhani Post,
Aundipatti Taluk,
Theni District - 625 212.

.. Petitioner

Vs

The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye-Pass Road,
Madurai -16.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to settle the benefits with continuity of service from the date of dismissal on 3.11.2012 till the date of reinstatement on 30.11.2017 and to settle the arrears of wages from the date of Labour Court Award on 14.2.2017 till the date of reinstatement as ordered by the Labour Court in I.D.No.92 of 2015, dated 14.2.2017 along with interest.

For Petitioner : Mr.M.Pounraj
For Respondent : Mr.A.P.Muthupandian
Standing Counsel

ORDER

The Petitioner has come forward with this Writ Petition seeking issuance of a Writ of Mandamus directing the respondents to settle the benefits with continuity of service from the date of dismissal on 3.11.2012 till the date of reinstatement on 30.11.2017 and to settle the arrears of wages from the date of Labour Court Award on 14.2.2017 till the date of reinstatement as ordered by the Labour Court in I.D.No.92 of 2015, dated 14.2.2017 along with interest.



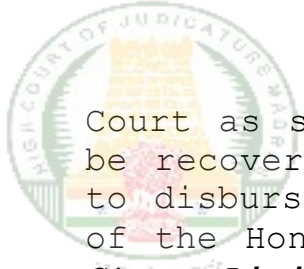
2.The case of the Petitioner is that the Petitioner, who was appointed as Conductor on 20.11.1992, was dismissed from service on 03.11.2012. The Labour Court, Madurai by award, dated 14.2.2017 passed an award in I.D.No.92 of 2015 filed by the Worker and directed the management to reinstate the Petitioner within three months from the date of receipt of a copy of this award with continuity of service but without back-wages and other benefits. The Petitioner has stated that the award has become final, but unfortunately the management has not granted the relief to the Petitioner.

3.Mr.A.P.Muthupandian, learned Standing Counsel appearing for the respondent would submit that the award passed on 14.2.2017 was received by the respondent only in the month of April 2017 and that the Petitioner was reinstated in the month of November 2017 and retired from service on 30.09.2018 and that the employee has been paid the benefits like salary from the date of reinstatement till the date of superannuation. He would further submit that in terms of paragraph 14 of the award, the Petitioner would not be entitled to any relief as sought for in the Writ Petition and the Writ Petition has got to be dismissed.

4.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5.It is not in dispute that the Petitioner after having rendered 20 years of service, was dismissed from service on 03.11.2012 and the Labour Court by award dated 14.2.2017 in I.D.No.92 of 2012 granted the relief of reinstatement in service with continuity of service but has deprived the monetary benefits for the past service. It is also not in dispute that the Petitioner has been reinstated in service in the month of November 2017 and from that period, the Petitioner has been paid wages. As per the Labour Court award, more particularly, in the light of paragraph 14 of the award, the Petitioner is entitled to wages and other benefits and it cannot be deprived by the Management. As there continuity of service, the entire past service from the date of joining in service has to be taken into account for pensionary and other service benefits. Admittedly, the Petitioner comes under the Contributory Pension Scheme(CPS).

6.In view of the above reasonings, the entire service will have to be taken into account for the purpose of calculating terminal benefits like gratuity and other arrears shall be paid within a period of two months from the date of receipt of a copy of this order. The Petitioner is also entitled to get interest on the gratuity amount at the rate of 10% per annum from the date of service and the terminal benefits would fetch interest at the rate of 6% per annum. This Court makes it very clear that if the above said amount is not paid within the time stipulated by this



Court as stated supra, interest payable to the Petitioner shall be recovered from the salary of the official, who is responsible to disburse the said amount. Hence, taking note of the judgment of the Honourable Apex Court in **Central Co-operative Consumers Store Limited .vs. Labour Court, Himachal Pradesh at Shimla and another reported in AIR 1994 SC 23**, respondent/Corporation will have to pay the above said amount at the first instance and then to recover the same from the official concerned.

7. With the above directions, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-II)

To

The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye-Pass Road,
Madurai -16.

+ 1 CC TO Mr.M.POUNRAJ, ADVOCATE IN SR No. 91230

VSN
TE/SKN/SAR-2 : 23/11/2018 : 3P/3C

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