

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.02.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4893 of 2018

L. Gnanasekaran,

vs

...Petitioner

1. The Managing Director.
Tamil Nadu State Transport Corporation Coimbatore Ltd,
No.37, Mettupalayam Salai,
Coimbatore-43.

2. The General Manager,
Tamil Nadu State Transport Corporation Coimbatore Ltd.,
Thirupur Road,
Thirupur.

3. The Branch Manager,
Tamil Nadu State Transport Corporation Coimbatore Ltd.,
Udumalaipet Branch,
Thirupur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus or any other writ or direction, directing the respondents to give 1st review benefits from 1.11.2013 with arrears and all consequential benefits forthwith.

For Petitioner : Ms. G. Vaishali
for T. Fenn Walter Associates

For Respondents: Mr. R. S. Selvam

O R D E R

The relief as such sought for in the present Writ Petition is for direction to direct the respondents to from give 1st review benefits from 1.11.2013 with arrears and all consequential service benefits.

2. The writ petitioner was appointment as driver on 08.07.2007 in the respondent Corporation. The grievance of the writ petitioner is that 1st review benefits ensured by the respondents are not granted to him. The fact that the petitioner had completed six (6) years of service under the respondent.

3. As per 12(3) settlement between the management and Trade unions dated 13.04.2015, persons who are working continuously for 6 years is eligible for 1st review benefits, thereafter the second review benefits will be given after 7 years of service from the date of sanctioning 1st review benefits (6+7+7+7+5). However, the benefits has not been granted to writ petitioner for the reasons not known to him.

4. The respondents filed a counter affidavit by stating the the writ petitioner was appointed on 08.07.2007 as driver and now working in Udumalpet Branch informing the facts that the writ petitioner is not eligible for 1st review benefits on the due date on account of pendency of the disciplinary proceedings against him.

5. The Petitioner joined duty on 08.07.2007 and he is eligible for 1st review after completion of 6 years falls on 08.07.2013. But due to the following discrepancies his review was not effected in due date.

- " a) 76 days loss of pay leave in his service period
b) Increment postponed with cumulative effect for 1 year (for his affence of damage of bus on 18.05.2013) vide Ref. no.G1/305/2013 dt. 06.01.15.
c) Increment postponed with cumulative effect for 1 year (for his affence of misbehaved on 12.11.2013) vide Ref.No.G1/605/2013 dt.19.11.14.
d) Suspended for 3 days (for his misbehavior on 05.08.14) vide Ref.No.G1/596/2014 dt. 06.01.2015.
e) Fine Rs. 500/- (for his affence of Absence for more than 10 days (14(f) from 12.06.2013) vide Ref. No.G8A/3254/2013 dt.03.11.17."

6. The period of service is not only the criteria for the Review benefits. As per common service Rules under Rule 61 and 62 the following criteria are to be followed:

61(b)(iii) Period of suspension where

'suspension' was ordered to be treated as specific punishment.

(iv) Periods of any kind of leave which does not count for increment of any rule for order applicable to the post(s) held.

(v) Periods by which increment was withheld with cumulative effect.

(vi) Periods by which increment was withheld without cumulative Effect, where such withholding of increment is operative at the time review.

62 (e) Provided that the review shall stand postponed automatically also in cases where punishments already awarded, like withholding of increment or reducing of pay to a lower stage are operative at the time of review under rule 61.

7. Based on the above rules after completion of the disciplinary cases and implementation of punishments, the writ petitioner was given 1st review w.e.f. 01.11.2017 as details below:

Date of joining	08.07.2007
Review Period	6
NQS period 08.07.07 to 10/2013	16.02.0000
	24.09.20
	13
Eligible Date	01.11.20
	13
Increment postponed 2years with cumulative effect	2
	01.11.20
	15
Case No.3254/2013 pending and closed on 03.11.2017	2
Eligible date	01.11.20
	17
1 st review given on	01.11.20
	17

8. It is made clear that the 1st Review benefits were already given to the petitioner w.e.f 01.11.2017 as per Common Service Rules and therefore the petitioner's claim for grant of

Review benefits with retrospective effect, cannot be granted in view of the reasons stated in the aforesaid paragraphs.

9. Considering the facts and circumstances, this Court is of an opinion that the 1st Review benefits had already been extended to the writ petitioner w.e.f. 01.11.2017 as per Common Service Rules and considering the service particulars of the writ petitioner. This being the factum, the writ petitioner is not entitled for any such retrospective claim as such sought for.

10. Accordingly, the writ petition is devoid of merits and stand dismissed. No Costs.

mrn/mrm

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Managing Director.
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Udumalaipet Branch,
Thirupur District.

+1cc to Mr.R.S.Selvam, Advocate, S.R.No.11501

+1cc to Mr.T.Fenn Walter Associates, Advocates, S.R.No.11921

W.P.No.4893 of 2018

NRLCO)
Kak(21/03/2019)