

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.01.2019
CORAM
THE HON'BLE DR.JUSTICE S.VIMALA
W.P.No.5970 of 2018

Rajendran

... Petitioner

versus

1. The Managing Director,
Tamil Nadu Transport Corporation,
Kumbakonam Division,
Kumbakonam,
Thanjavur District.
2. The Depot Manager,
Tamil Nadu Transport Corporation,
Karaikkal.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, to direct the respondents to consider the representation of the petitioner dated 08.06.2018 and enable him to avail the benefit of gratuity to the petitioner and other monetary benefits in accordance with law.

For Petitioner : Mr.M.R.Senthilkumar
For Respondents : Mr.P.Kannan Kumar
Standing Counsel

ORDER

The petitioner had joined as Driver in the Tamil Nadu Transport Corporation, Kumbakonam Division-I, on 17.11.2000 and after rendering unblemished service, he retired from service on 31.03.2016.

1.1. It is stated by the petitioner that during the year 2002, as he was suffering from fever, he had applied leave with medical certificates seeking leave for the month of May, June and July 2002. But, the respondent did not allow him to join duty and initiated departmental proceeding, resulting in dismissal from service on 19.02.2003. Aggrieved against the same, he filed a case in I.D.No.13 of 2006 before the learned Labour Court, cuddalore. The Labour Court, by an order dated 30.03.2010, allowed the petition by directing the respondents to reinstate the workman with continuity of service, but, without backwages. But the said award has not been complied with by the respondent.

1.2. The respondent, by way of settlement under Section 18 (1) of Industrial Dispute Act, offered fresh appointment in minimum time scale of pay as applicable to new casual drivers without continuity of service and without any backwages till the date of joining duty.

1.3. It is the grievance of the petitioner that by virtue of this settlement, he was deprived of two benefits, i.e. entitlement to gratuity by not allowing 5 years of continuous service and by new appointment, he was put away from the purview of old pension scheme. He attained superannuation on 31.03.2016 and the transport authorities refused to sanction the eligible gratuity stating that he had completed 4 years 7 months and 21 days of service instead of 5 years. Hence, he made a representation to the respondent on 08.06.2016 to consider and round off his service period as 5 years for getting gratuity. As the said representation has not been considered, the present writ petition has been filed.

2. The learned counsel appearing for the petitioner submitted that it would suffice, if the representation of the petitioner is directed to be considered by the respondent.

3. Considering the facts and circumstances of the case, this Court, without going into the merits of the case, direct the respondents to consider the representation of the petitioner dated 08.06.2016 within a period of eight weeks from the date of receipt of a copy of this order.

4. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS iii)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
Tamil Nadu Transport Corporation,
Kumbakonam Division, Kumbakonam, Thanjavur District.

2. The Depot Manager,
Tamil Nadu Transport Corporation, Karaikkal.

+1cc to Mr. M.R.Senthilkumar, Advocate SR.No. 1638

W.P.No.5970 of 2018

A.SK(15/02/2019)