

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.09.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.8146 OF 2019

P.Sellamuthu

...Petitioner

..Vs..

1. The Special Deputy Commissioner of Labour,
Office of the Commissioner of Labour,
Thenampettai, Chennai - 600 018.

2. The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore) Ltd.,
Coimbatore - 641 011.

3. The General Manager,
Tamil Nadu State Transport Corporation
(Coimbatore) Ltd., Erode Division,
Erode - 638 001.

...Respondents

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned orders passed by the 3rd respondent in Paa.No.Spl/B2/Pa.P.2/TNSTC/Ko/ED/2019 dated 07.03.2019 and quash the same and consequently to direct the respondents 2 and 3 to accept the Voluntary Retirement of Service (VRS) offered by the petitioner as per his notice and application dated 27.09.2018 and relieve the petitioner from service immediately by sanctioning pension and other financial benefits.

For Petitioner : Mr.R.Krishna Moorthy

For Respondents : Mr.M.Elumalai, GA
(for R.1)
Mr.P.Kannan Kumar
(for R.2 & R.3)

ORDER

The order dated 07.03.2019 rejecting the claim of the writ petitioner for opting Voluntary Retirement of Service (VRS) is under challenge in the present writ petition. The order impugned dated 07.03.2019 states that the writ petitioner has not completed 20 years of service and he was terminated from service on 25.09.2006 and reinstated on 12.12.2013 with 50% backwages. Thus, the intervening period from 2006-2013 cannot be reckoned for the purpose of continuity of service and consequently the said period cannot be considered as qualifying service, so as to allow the writ petitioner opt for VRS.

2.The fact remains that the writ petitioner was appointed as a Conductor in the respondent/Corporation on 20.03.1992 and he was serving as such. The petitioner remained unauthorizedly absent and consequently the departmental disciplinary proceedings were initiated and he was removed from service on 12.10.2007. On account of the subsequent settlement between the recognized unions and the management, the writ petitioner was reinstated into service with 50% backwages on 07.12.2013. The order dated 07.12.2013 regarding the reinstatement of the writ petitioner states that the writ petitioner was reinstated into service with continuity of service and 50% of backwages.

3.When the 50% of backwages are granted in respect of the termination period and further the continuity of service was granted, this Court is of the considered opinion that the said period cannot be omitted for the purpose of reckoning the qualifying service for allowing the writ petitioner to go on VRS. Undoubtedly, the writ petitioner was terminated from service, however, he was reinstated with continuity of service and 50% backwages.

4.This being the admitted fact, this Court is of the considered opinion that the period of 20 years is to be calculated including the period of termination which was considered as continuity of service by the respondent in proceedings dated 07.12.2013. This apart, the writ petitioner is now aged about 56 years and he may not be hardly having 2 years of service. On the medical grounds or some other grounds, he sought to opt for Voluntary Retirement of Service. Thus, the case of the writ petitioner deserve merit consideration.

5.Accordingly, the order impugned passed by the third respondent in proceedings No. Paa.No.Spl/B2/Pa.P.2/TNSTC/Ko/ED/2019 dated 07.03.2019 is quashed. The respondents are directed to consider the VRS application submitted by the writ petitioner, otherwise if he is eligible and pass orders afresh within a period of four weeks from the date of receipt of copy

of this order.

6. Accordingly, the writ petition stands allowed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

mrm

To

1. The Special Deputy Commissioner of Labour,
Office of the Commissioner of Labour,
Thenampettai, Chennai - 600 018.
2. The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore) Ltd.,
Coimbatore - 641 011.
3. The General Manager,
Tamil Nadu State Transport Corporation
(Coimbatore) Ltd., Erode Division,
Erode - 638 001.

+1cc to Mr.R.Krishna Moorthy, Advocate, S.R.No.78247
+1cc to Mr.P.Kannan Kumar, Advocate, S.R.No.77856
+1cc to the Government Pleader, S.R.No.78428

CS/10/10/2019

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