



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.12.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
W.P No.24283 of 2019
and W.M.P No.24039 of 2019

N.Dhandapani

Petitioner

vs.

1. Tamilnadu State Trasport Corporation (Villupuram) Limited,
Rep. by its Managing Director,
3/137, Salamedu,
Villupuram District.
2. The General Manager,
Tamilnadu State Trasport Corporation (Villupuram) Limited,
Cuddalore Region, Cuddalore.
3. The Administrator,
Tamilnadu State Trasport Corporation Employees' Pension Fund Trust,
Thiruvalluvar Illam, Pallavan Salai,
Chennai - 2.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to pay the petitioner the arrears and other consequential benefits, including the PF/Pension contributions for the period from 16.12.2009 to 02.04.2013, by treating the said period as duty with pay for all purposes and to revise and re-fix my pay w.e.f. 04.04.2013 to 31.05.2018, based on the salary payable to him as on 02.04.2013 and by treating the petitioner on par with my immediate junior, with difference in pay and other consequential benefits and to pay and settle him all the terminal benefits, such as gratuity, earned leave salary for 104.5 day, commuted value of pension, family benefit fund, the amount payable under the Social Security Scheme, IRT contributions etc., based on the revised pay payable to him as on the date of his retirement and to pay the petitioner the traveling allowance/conveyance allowance at the rate of Rs.1000/- per month from the 3.4.2013 to 31.05.2018, together with interest at the rate of 12% per annum, within a specified time as may be fixed by this Court, Award costs.



For Petitioner : Mr.R.Krishnasamy
For Respondents: Mr.A.Antony Arockiaraj
Standing Counsel for Respondents

WEB COPY

ORDER

This writ petition has been filed for issuance of writ of mandamus directing the respondents to re-fix the pay of the petitioner on par with his junior and to give him consequential benefits and also revise the pension payable to the petitioner.

2.It is seen from records that the petitioner joined as a Conductor in the Transport Corporation in the year 1995 and he was made permanent in the year 1998. While on duty, the petitioner met with an accident and consequently he became unfit for the post of Conductor. After the petitioner underwent surgery and recovered after treatment, he made a representation to the 1st and 2nd respondents to provide him with a light duty. The petitioner also approached this Court and filed W.P.No.22310 of 2011. This Court by an order dated 04.11.2011 directed the respondents to consider the request made by the petitioner in the light of the provisions of Section 47(1) of Persons with Disabilities Act, 1995.

3.The petitioner was referred to the Medical Board and after report was submitted, the respondents 1 and 2 provided with a light duty to the petitioner with pay protection, by an order dated 28.03.2013. The petitioner also superannuated in the year 2018.

4.The grievance of the petitioner is that his basic pay was fixed at Rs.32,100/- and whereas the basic pay of one other employee name S.Karunanidhi who is also similarly placed was Rs.34,500/- and therefore, according to the petitioner there is a reduction of pay insofar as the petitioner is concerned and consequently the petitioner is entitled for re-fixation of pay, arrears and monetary benefits and also re-fixation of the pension. The petitioner had also made a representation to the respondents. Since no orders were passed by the respondents, petitioner has approached this Court and filed the above writ petition.

5.Mr.Ajay Khose, learned counsel appearing on behalf of the petitioner submitted that the respondent Corporation has reduced the pay while the petitioner was given the alternative employment in terms of Section 47(1) of Persons with Disabilities Act, 1995. The learned counsel submitted that by an order dated 28.03.2013, it was made clear that the petitioner is



provided with an alternative employment as Helper without any reduction of pay with service benefits in accordance with Section 47(1) of Persons with Disabilities Act, 1995. After having passed an order to that effect, the pay of the petitioner is reduced and a person who was similarly placed like the petitioner is having a higher basic pay of Rs.34,500/-

6.Per Contra, the learned counsel appearing on behalf of the respondent Corporation submitted that there is no reduction of pay insofar as the petitioner is concerned. The learned counsel submitted that pay has been fixed for the petitioner strictly in accordance with law and the learned counsel also produced the proceedings of the respondent dated 05.12.2019, explaining the manner in which the pay has been fixed for the petitioner. The learned counsel submitted that the pay that has been fixed for the petitioner is when he was given the alternative employment and was strictly in accordance with law and there was no reduction of pay as alleged by the petitioner.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.

8.The proceedings dated 05.12.2019 that has been produced before this Court clearly shows the manner in which the pay of the petitioner was fixed at the time he was granted alternative employment. The proceedings clearly explains the basis on which the pay was fixed. This Court does not find any apparent illegality in the proceedings that have been produced before this Court.

9.In view of the above, this Court is not inclined to grant the relief as sought for by the petitioner. If the petitioner is aggrieved by the proceedings dated 05.12.2019 that has been produced before this Court, it is left open to him to challenge the same in accordance with law, if so advised.

10.This writ petition is disposed of, accordingly. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



WEB COPY

1. The Managing Director,
Tamilnadu State Trasport
Corporation (Villupuram) Limited,
3/137, Salamedu,
Villupuram District.
2. The General Manager,
Tamilnadu State Trasport
Corporation (Villupuram) Limited,
Cuddalore Region, Cuddalore.
3. The Administrator,
Tamilnadu State Trasport
Corporation Employees' Pension Fund Trust,
Thiruvalluvar Illam, Pallavan Salai,
Chennai - 2.

+lcc to Mr.Vijay Khose, Advocate sr.104678

+lcc to Mr.A.Antony Arockiaraj, Advocate sr.104626

W.P No.24283 of 2019
and W.M.P No.24039 of 2019

bs(co)
nr 23/01/2020