

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.11861 of 2017

P.Muthusamy

... Petitioner

Vs.

1.The Tamil Nadu State Transport Corporation Ltd.
Coimbatore Division I
Rep. by its Managing Director
No.37, Mettupalayam Road
Coimbatore

2.The Administrator
Tamil Nadu State Transport Employees'
Pension Fund Trust
Thiruvalluvar Illam
Anna Salai
Chennai 600 002

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 1st respondent herein to grant pension to the petitioner after extending the benefit of continuity of service from the date of the petitioner's initial appointment till the date of retirement i.e. 31.05.2016 as per order of this Court in W.P.No.9544 of 2011 dated 14.06.2011 with interest, consequently pay salary arrears and other attendance benefits for the period from the date of discharge and re-appointment.

For Petitioner : Mr.Venkataswamy Babu

For Respondents : Mr.R.Annamalai

O R D E R

This petition has been filed by the petitioner to direct the 1st respondent herein to grant pension to the petitioner after extending the benefit of continuity of service from the date of the petitioner's initial appointment till the date of retirement i.e. 31.05.2016 as per order of this Court in W.P.No.9544 of 2011 dated 14.06.2011 with interest, consequently pay salary

arrears and other attendance benefits for the period from the date of discharge and re-appointment.

2.The learned counsel appearing for the petitioner would submit that the petitioner was working as Driver (PR.No.8582) in the 1st respondent office and retired from the services on 31.06.2014 on attaining the age of superannuation. The 1st respondent did not include the petitioner's service for calculating pension from the date of joining service with respondent on 30.05.1987. The petitioner was discharged from service on 21.10.1995 due to medical unfitness which the board declared that he was unfit to work as driver . The 1st respondent instead of giving alternative employment discharged the petitioner from the service and did not consider his representations made to the respondents to give suitable alternative job. Thereafter, the petitioner was given alternative employment as helper as a fresh entrant on 11.05.1996. Aggrieved by the said employment, the petitioner filed W.P.No.9544 2011, which was allowed and the respondents were directed to give continuity of service with all pay protection. The respondents did not count the petitioner's past service from the date of his initial appointment that is from 30.05.1987 till the date of re-appointment as helper on 11.05.1996 and calculated pension for the period only from 11.05.1996 till the date of superannuation. Thereafter, the petitioner made several representations to the respondent to pay salary for the period which the respondent failed to give alternative employment. Though the petitioner was retired on 30.06.2014, the 1st respondent had not chosen to settle his retirement benefits. Hence, this petition.

3.The learned counsel for the petitioner submitted that, it would suffice if a direction is issued to the 1st respondent to consider the representation of the petitioner dated 12.01.2017, within a reasonable time as fixed by this Court to extend the benefit of continuity of service from the date of the petitioner's initial appointment till the date of retirement i.e. 31.06.2014 as per order of this Court in W.P.No.9544 of 2011 with interest, consequently pay salary arrears and other attendance benefits for the period from the date of discharge and re-appointment.

4.The learned counsel appearing for the respondents would accede to the submission made by the learned counsel for the petitioner and submitted that if any such representation was received by the respondents, the same will be considered on merits and in accordance with law.

5.Thus, without going into the merits of the case, this Court is inclined to direct the 1st respondent to consider the

representation of petitioner dated 12.01.2017 and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

6.With the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition if any is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To.

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2.The Administrator
Tamil Nadu State Transport Employees'
Pension Fund Trust
Thiruvalluvar Illam
Anna Salai
Chennai 600 002.

+1cc to Venkataswamy Babu, Advocate Sr.94929
+1cc to Mr.R.Annamalai, Advocate Sr.95345

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srg 08/01/2020