

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.23089 of 2017

K.Jayachandran

... 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
Employees Provident Fund Trust, Chennimalai
The Tamil Nadu State Transport Corporation Ltd.,
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. 28.02.2014 as per order of this Court in W.P.No.10678 of 2010 dated 25.11.2010 with interest, consequently pay salary arrears and other attendant benefits for the period from the date of discharge and re-appointment and to pay the pension for the month of June 2016.

For Petitioner : Mr.Venkataswamy Babu

For Respondents : Mr.P.Kannankumar, SC for R1

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. 28.02.2014 as per order of this Court in W.P.No.10678 of

2010 dated 25.11.2010 with interest, consequently pay salary arrears and other attendance benefits for the period from the date of discharge and re-appointment and to pay the pension for the month of June 2016.

2.The learned counsel appearing for the petitioner would submit that the petitioner was working as Driver (PR.No.8751) in the 2nd respondent office and retired from the services on 28.02.2014 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 14.12.1985. The petitioner was discharged from service on 18.09.1998 due to medical unfitness which the board declared that he was unfit to work as driver. The 2nd 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. Only after two years, the petitioner was given alternative employment as helper as a fresh entrant on 22.03.2000. Aggrieved by the said employment, the petitioner filed W.P.No.10678 of 2010, 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 14.12.1985 till the date of re-appointment as helper on 22.03.2000 and calculated pension for the period only from 22.03.2000 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 28.02.2014, the 1st respondent had not chosen to settle his retirement benefits giving the reason 'paucity of funds'. The 1st respondent had chosen to disburse part of the retirement benefits and failed to disburse the balance retirement benefits till date. 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 25.07.2017, 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. 28.02.2014 as per order of this Court in W.P.No.10678 of 2010 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 1st respondent 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 25.07.2017 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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Coimbatore Division I
rep. by its Managing Director
No.37, Mettupalayam Road
Coimbatore.

2.The Administrator
Employees Provident Fund Trust, Chennimalai
The Tamil Nadu State Transport Corporation Ltd.,
Chennai 600 002.

+1cc to Mr.Venkataswamy Babu, Advocate Sr.94931

+2cc to Mr.P.Kannan Kumar, Advocate Sr.95731

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srg 08/01/2020