

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :12.11.2019
CORAM
THE HON'BLE MR.JUSTICE M.DHANDAPANI
W.P.No.31864 of 2019

R.Mani

..Petitioner

Vs

1.Tamilnadu State Transport
Corporation (Salem) Ltd.,
Rep. by its Managing Director,
12, Ramakrishna Road,
Salem-7.

2.The General Manager,
Tamilnadu State Transport
Corporation (Salem) Ltd.,
Dharmapuri Region
Bharathipuram
Dharmapuri.

3.The Administrator,
Tamilnadu State Transport
Employee's Pension Trust
Thiruvalluvar Illam
Pallavan Salai,
Chennai-2.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue appropriate Writs, Orders or Directions and in particular issue a Writ in the nature of MANDAMUS, directing the Respondents to treat and take petitioner's total qualifying service as 29 years and to sanction and pay gratuity, monthly pension and commutated value of pension for 29 years of his qualifying service and to pay him a sum of Rs.98,268/- towards difference in gratuity; a sum of Rs.50,100/- towards difference in commutated value of pension and to revise his monthly pension as Rs.1,535/- per month w.e.f.1.6.2016 with corresponding dearness allowance and revision as revised from time to time, with arrears, together with interest at the rate of 12% per annum for all the above terminal benefits, Award costs.

For Petitioner : Mr.Krishnasamy R.
For Respondent : Mrs. Rajeni Ramadass,
Standing counsel,
for Transport Corporation.

ORDER

1.The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus, to direct the Respondents to treat and take the petitioner's total qualifying service as 29 years and to sanction and pay gratuity, monthly pension and commutated value of pension for 29 years of his qualifying service and to pay him a sum of Rs.98,268/- towards difference in gratuity; a sum of Rs.50,100/- towards difference in commutated value of pension and to revise his monthly pension as Rs.1,535/- per month w.e.f.1.6.2016 with corresponding dearness allowance and revision as revised from time to time, with arrears, together with interest at the rate of 12% per annum for all the above terminal benefits, Award costs.

2.The case of the petitioner is that he was appointed as Conductor on 27.12.1986 in the respondent transport Corporation. While he was working at Uthankarai Depot, the petitioner met with an accident and sustained severe bone fractures and injuries and after treatment he joined duty on 25.12.2003 and thereafter, he was given diesel filling work by way of light duty. Thereafter, the petitioner was referred to the Medical Board to find out as to whether he was fit for the post of Conductor. However, instead of providing alternative employment, the respondent by a show cause notice dated 29.08.2006 proposed to discharge the petitioner permanently on medical grounds. Challenging the same the petitioner filed W.P.No.36991/2006. Pursuant to the order of this Court passed in the said Writ Petition, the respondent provided the petitioner with alternative employment as a Helper in the same scale of pay which he was getting in the post of Conductor and in the said order, the respondent treated the period from 25.09.2004 to 04.05.2007 as leave on loss of pay, which came to be allowed by this Court vide order dated 28.04.2010. Pursuant to the directions of this Court, the respondent issued cheque for a sum of Rs.2,64,752/- after deducting a sum of Rs.41,694/- towards Provident Fund contributions and TDS amount from the total amount payable to me towards back wages for the said period and thereafter, the petitioner retired from service on 31.05.2016 on attaining the age of superannuation. According to the petitioner, he rendered total service as 29 years, 5 months and 4 days, whereas the 3rd respondent in a pension sanction order has mentioned that as his total qualifying service only as 25 years and his pension was fixed by taking into consideration as a total qualifying service as 25 years. Aggrieved by the same the petitioner has made a representation on 18.12.2018 requesting the respondents to consider his total qualifying

service as 29 years and 4 months for the purpose of calculation of payment of gratuity. The grievance of the petitioner is that despite his representation, the respondents have not passed any orders which prompted, the petitioner is before this Court.

3.The learned counsel appearing for the petitioner would submit that though the petitioner rendered more than 29 years of qualifying service, however, the respondents have wrongly taken the petitioner's qualifying service as 25 years instead of 29 years for terminal benefits. In regard to the lapse of 4 years benefit, the petitioner made a representation on 18.12.2018 to the respondents for revising terminal benefits. He would submit that without going into the merits of the case, it would suffice if this Court issues direction to the respondents to consider the petitioner's representation dated 18.12.2018 and to pass appropriate orders.

4.Considering the limited request made by the learned counsel appearing for the petitioner, I am inclined to issue direction to the respondents to consider the petitioner's representation dated 18.12.2018 and pass 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.

5.The writ petition is accordingly disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs

To

1.The Managing Director, Tamilnadu State Transport Corporation (Salem) Ltd.,
12, Ramakrishna Road,
Salem-7.

2.The General Manager,
Tamilnadu State Transport Corporation (Salem) Ltd.,
Dharmapuri Region,
Bharathipuram, Dharmapuri.

3.The Administrator,
Tamilnadu State Transport
Employee's Pension Trust
Thiruvalluvar Illam
Pallavan Salai,Chennai-2.

+1cc to Mr.V.Ajoy Khose, Advocate sr.93919

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nr 20/12/2019



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