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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32813 of 2019

C.Gangadharan

... Petitioner

.Vs.

Management,
The Tamil Nadu State
Transport Corporation,
Rep.by its General Manager,
(Coimbatore Division-I) Ltd,
37, Metupalayam Road,
Coimbatore-641 043.
rep.by
its General Manager

... Respondent

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents directing the respondent to initiate and complete the process of awarding a lesser punishment to the petitioner who was in its employment as Conductor in terms of the order in W.P.No.22846 of 2006 of this Court dated 26.4.2011, as modified by order dated 12.9.2012 and clarified by order dated 15.2.2017 and pay him all the monetary benefits and back-wages.

For petitioner : Mr.P.K.Rajagopal
For Respondents: Mr.R.Selvam
Government Advocate

ORDER

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2.The case of the petitioner is that he was appointed as Conductor in the 1st respondent Corporation in the year 1978.



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In the year 1996, petitioner availed medical leave on the ground of chest pain causing Bronchitis by producing medical certificate. Thereafter in 08.09.1996, he rejoined duty by producing fitness certificate. On 30.09.1996, Charge memo was issued to the petitioner by the 1st respondent Corporation containing that he had produced a false medical certificate. After conducting an enquiry on 13.01.1998, dismissal order was passed against the petitioner. After dismissal, the 1st respondent Corporation filed approval Petition No.5/1998 in I.D.No.3/1990 under Section 33(2)(b) of the Industrial Dispute Act seeking approval for his dismissal order before the Industrial Tribunal, Chennai. The Industrial Tribunal however, dismissed the approval application filed by the respondent by order dated 17.09.2001. The 1st respondent filed a writ petition before this court against the dismissal order. On 17.9.2001, this Court was pleased to set aside the order of the Industrial Tribunal and remitted back the matter for the purpose of enabling the management to adduce evidence. After getting approval, he filed a writ petition before this Court in W.P.No.22846 of 2006 by an order dated 26.4.2011 and this Court found that the charge against the petitioner was not proved and the matter was remitted back to the authority to impose any other punishment. On 07.03.2017, the petitioner sent a legal notice to the respondent and the same was received with acknowledgement on 13.03.2017. In the meantime, he attained the age of superannuation and retired from service. Though, the respondent received the notice on 13.03.2017, till date no order was passed by the 1st respondent. In the said circumstances, he filed a contempt application in Contempt Petition No.1038 of 2019 and the same was dismissed. In this regard, in order to avail all the monetary benefits and back wages as per the order of this Court, the petitioner has filed the present petition.

3.Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent.

4.The learned counsel for the petitioner submitted that the petitioner has not made any representation for settlement of the terminal benefits and hence, he may be permitted to make representation and the respondents may be directed to consider the petitioner's representation and to pass orders on merits and in accordance with law.

5.Considering the limited request made by the petitioner, I am inclined to grant permission to the petitioner to make a representation to the respondent Corporation within a period of two weeks from the date of receipt of a copy of this order and on receipt of such representation, the respondent



Corporation may consider the same and pass appropriate orders as expeditiously as possible.

With the above directions, the writ petition is disposed of. No costs.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

KP

To

The General Manager,
The Tamil Nadu State
Transport Corporation,
Coimbatore Division-I) Ltd,
37, Metupalayam Road,
Coimbatore-641 043.

+lcc to Mr.P.K.Rajagopal, Advocate sr.98489
+lcc to Mr.R.S.Selvam, Advocate sr.97662

W.P.No.32813 of 2019

rsv(co)
nr 09/01/2020