

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.32453 of 2018

D.Selvaraj

... Petitioner

Vs.

1.The Administrator
TNSTC Employees Pension Fund Trust
2, Pallavan Salai
Chennai-2

2.The Managing Director
Tamilnadu Transport Corporation Limited
Coimbatore Division I
No.37, Mettupalayam Road
Coimbatore.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent with the reference to the impugned order dated 14.11.2017 and to quash the same as illegal, unjust, and arbitrary and to direct the respondents herein to grant pension to the petitioner after extending the benefit of continuity of service from the date of initial appointment till the date of retirement on 31.03.2016 with interest, consequently pay salary arrears and other attendant benefits for the period from the date of discharge and re-appointment.

For Petitioner : Mr.Venkataswamy Babu

For Respondents : Mr.P.Kannan Kumar

O R D E R

This petition has been filed by the petitioner to call for the records on the file of the 2nd respondent with the reference to the impugned order dated 14.11.2017 and to quash the same as illegal, unjust, and arbitrary and to direct the respondents herein to grant pension to the petitioner after extending the benefit of continuity of service from the date of initial appointment till the date of retirement on 31.03.2016 with

interest, consequently pay salary arrears and other attendant 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 Conductor (PR.No.5905) in the 2nd respondent office and retired from the services on 31.03.2016 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 22.05.1987. The petitioner was discharged from service on 06.06.2000 due to medical unfitness which the board declared that he was unfit to work as conductor. 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. Thereafter, the petitioner was given alternative employment as helper as a fresh entrant on 14.09.2000. Aggrieved by the said employment, the petitioner filed W.P.No.26950 of 2009, 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 28.05.1987 till the date of re-appointment as helper on 14.09.2000 and calculated pension for the period only from 14.09.2000 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 31.03.2016, the 1st respondent had not chosen to settle his retirement benefits. Hence, the petitioner filed W.P.No.24759 of 2016 seeking a direction to the respondents to count the entire length of service for the period from 22.05.1987 to 31.03.2016, wherein this court directed the respondent to consider the petitioner's representation dated 18.06.2016 to count his earlier service and pass orders within six weeks. The six weeks time granted by this Court expired on 05.10.2016, but the 1st respondent had not chosen to consider his representations citing various reasons. Hence, this petition.

3.Heard the learned counsel on either side.

4.The learned counsel for the petitioner submitted that though this Court passed an order in W.P.No.24759 of 2016, to count the entire length of service for the period from 22.05.1987 to 31.03.2016 and directed the respondent to consider his representation dated 18.06.2016 to count his earlier service and pass orders within six weeks, the respondent received the copy of the order on 23.08.2016 and the six weeks time granted by this court expired on 05.10.2016, the 1st respondent had not

chosen to consider his representation citing various reasons. Without considering all the above facts, the 2nd respondent has passed an impugned order without application of mind and therefore, he seeks to set aside the order dated 14.11.2017 and remand the matter back to the concerned authorities for fresh inspection and pass appropriate orders.

5.The learned counsel for the respondent conceded to the request made by the learned counsel for the petitioner to remand the matter back to authorities concerned.

6.In view of the limited prayer sought for by the petitioner, this Court is inclined to set aside the impugned order dated 14.11.2017, passed by the 2nd respondent and remand the matter back to the 2nd respondent for fresh consideration.

7.Accordingly, the order dated 14.11.2017 passed by the 2nd respondent is set aside and the matter is remanded back to the 2nd respondent. The 2nd respondent is hereby directed to consider the matter afresh after affording an opportunity to the petitioner, take a decision according to the law.

8.With the above observation, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition if any is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To.

1.The Administrator
TNSTC Employees Pension Fund Trust
2, Pallavan Salai, Chennai-2.

2.The Managing Director
Tamilnadu Transport Corporation Limited
Coimbatore Division I
No.37, Mettupalayam Road, Coimbatore.

+1cc to Mr.Venkataswamy Babu, Advocate Sr.94930
+2cc to Mr.P.Kannan Kumar, Advocate Sr.95730

W.P.No.32453 of 2018

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srg 08/01/2020