



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P. (MD) .No.13419 of 2014

and

MP (MD) No.1 of 2014

V.Manavalagan

... Petitioner

-Vs-

1.The Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Represented by its Managing Director,
Karaikudi Region,
27, New Railway Station Road,
Kumbakonam.

2.The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Karaikudi Region, Maruthupathi,
Karaikudi.

... Respondents

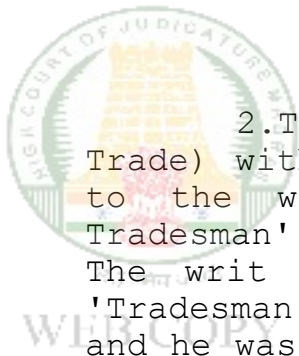
Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to promote the petitioner to the post of Foreman w.e.f 2003 and directing the respondents to pay the arrears of salary, monthly pension payable to the petitioner.

For Petitioner : Mr.G.M.Xavier

For Respondents : Mr.D.Sivaraman

ORDER

The relief sought for in the present writ petition is for a direction to direct the respondents 1 and 2 to promote the petitioner to the post of Foreman with effect from 2003 and directing the respondents to pay the arrears of salary, monthly pension payable to the writ petitioner.



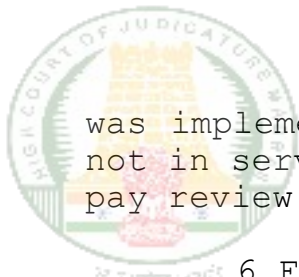
2.The writ petitioner was appointed as a Trainee (Tinker-Trade) with effect from 04.02.1981. The first review was provided to the writ petitioner and he was designated as 'Assistant Tradesman' on 01.05.1987, after completion of six years of service. The writ petitioner was given second review and designated as 'Tradesman'. The third review was granted to the writ petitioner and he was designated as 'Senior Tradesman'. The fourth review was given to the writ petitioner and accordingly, he was designated as 'Special Grade Tradesman'.

3.The grievance of the writ petitioner is that the fifth review was not granted to him despite the fact that he is eligible for the fifth review with effect from the year 2013 onwards. The learned counsel appearing on behalf of the writ petitioner states that as per 12(3) settlement, the writ petitioner is entitled to receive the fifth review with effect from 2013 and consequently, he is entitled for the monetary benefits including arrears of terminal benefits and pension.

4.The learned counsel appearing on behalf of the respondents disputed the contentions raised on behalf of the writ petitioner by stating that the writ petitioner was not eligible to avail the benefit of the fifth review and the benefit of reviews is granted to the writ petitioner are tabulated as under:-

S.No.	Review Benefits	Actual Eligible Date	Loss of Pay	Review given on
1.	1 st Review	01.05.1987 (6 years)	---	01.05.1987
2.	2 nd Review	01.05.1995 (8 years)	74 days	01.08.1995
3.	3 rd Review	01.08.2005 (10 years) (6+8+10) Pattern	140 days	01.02.2006
4.	4 th Review	01.02.2011 (6+7+8+8+3) Pattern	58 days	01.05.2011
5.	5 th Review	01.05.2014	---	Retired on 28.02.2014

5.Relying on the tabulation, the learned counsel appearing on behalf of the respondents states that when the fifth pay review was implemented by the respondents / Corporation, the writ petitioner retired from service on 28.02.2014 itself. Thus, the writ petitioner was not in service and he was not entitled to get the benefits of the fifth pay review/promotion. When the fifth pay



was implemented on 01.05.2014, on that day, the writ petitioner was not in service, thus, his case was not considered for grant of fifth pay review as well as the promotion.

6.First of all, such disputed facts, if any, is to be adjudicated before the Labour Court with reference to the terms and conditions of the 12(3) settlement. In respect of the service benefits provided for the settlements under the Industrial Disputes Act, the writ petitioner being a workman is entitled to adjudicate the same with reference to the original documents and by adducing evidences before the competent Court. Contrarily, such an adjudication cannot be done in a writ proceeding under Article 227 of the Constitution of India. When the respondents have given a tabulation by stating that the fifth pay review was implemented on 01.05.2014 and by that time, the writ petitioner attained the age of superannuation and retired from service on 28.02.2014 itself, this Court is of the opinion that the relief as sought for cannot be granted in favour of the writ petitioner. If at all, the writ petitioner is having sufficient documents to establish that he is entitled for such a review, it is left open to him to adjudicate the matter before the appropriate forum.

7.With these observations, the Writ Petitions stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Karaikudi Region,
27, New Railway Station Road, Kumbakonam.

2.The General Manager,
The Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Karaikudi Region, Maruthupathi, Karaikudi.

+1 CC to M/s.G.M.XAVIER, Advocate (SR-79749[F] dated 05/08/2019)
+1 CC to M/s.D.SIVARAMAN, Advocate (SR-80043[F] dated 06/08/2019)

W.P. (MD).No.13419 of 2014
05.08.2019

SJI

JM/16.08.2019/3P/5C

<https://hcservices.ecourts.gov.in/hcservices/>