



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.7631 of 2015

S.Jeyapal

... Petitioner

vs.

1)Tamil Nadu State Transport Corporation
Kumbakonam Limited,
represented by its Managing Director,
New Railway Station Road, Kumbakonam.
2)Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Tiruchirapalli Region,
represented by its General Manager,
Periya Milaguparai, Tiruchirapalli-1.

... Respondents

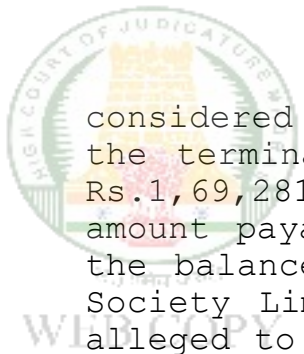
Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the second respondent in TNSTC/KUM/TRY/SM1/17051/2013 dated 25.02.2015 quashing the same and consequently directing the respondents to fix the pension in accordance with the representation made the petitioner on 23.07.2013 along with interest as may be fixed by this Honourable Court.

For Petitioner : Mr.S.K.Mani
For Respondents : Mr.D.Sivaraman

ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the second respondent in TNSTC/KUM/TRY/SM1/17051/2013 dated 25.02.2015 quashing the same and consequently directing the respondents to fix the pension in accordance with the representation made by the petitioner on 23.07.2013 along with interest as may be fixed by this Court.

2.Learned counsel for the petitioner would state that the petitioner was working as a driver in the 1st respondent corporation and he retired from service on 31.01.2013. Since he was not settled with his terminal benefits, he made representation and since it was not considered, he filed W.P(MD)No.17051/2013 which was disposed of on 16.07.2014 directing the respondents to consider the petitioner's representation within three months and now the 2nd respondent



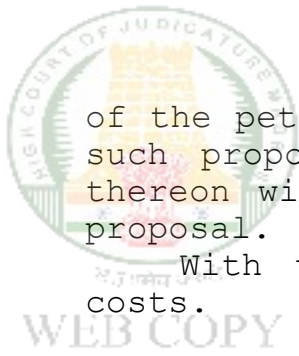
considered the representation and passed the impugned order whereby, the terminal benefits payable to the petitioner was calculated at Rs.1,69,281/- and a sum of Rs.5,00,587/- has been calculated as the amount payable by the petitioner to the corporation which includes the balance payable to the Transport Employees Co-operative Thrift Society Limited, Kumbakonam Division-II and also the sum that was alleged to be the yearly increment withheld as a way of punishment. According to the petitioner, no such due is payable by him to the society and he has also obtained a No Due Certificate from the said society and as regards the withholding of increment, he would state that it is a punishment which the petitioner undergone and therefore, it need not be paid by him to the corporation. Thus, he would pray for setting aside the impugned order of recovery.

3.Learned standing counsel for the respondents would fairly state that a batch of writ appeals filed against the orders passed in the similar batch of writ petitions relating to the issue raised in the present writ petition, were dismissed by the Hon'ble Division Bench by a common judgment dated 30.06.2017 in W.A(MD)No.465/2011 etc., batch.

4.Heard both sides.

5.Perusal of the common judgment dated 30.06.2017 passed in W.A (MD)No.465/2011 etc., batch, shows that after considering the relevant rules, the Division Bench holding that the management cannot effect such orders of recovery against the retired employees as there is no such provision under the certified standing orders or in the common service rules, set aside the orders of recovery challenged therein with a direction to the Management to settle the entire terminal benefits to the workmen therein in 12 equated monthly instalments together with the simple interest at 6% per annum on the expiry of three months from the date of retirement of the concerned workman, in default, to pay interest at the rate of 18% per annum from the date of retirement till the date of payment.

6.In my considered opinion, the said judgment is squarely applicable to the case on hand. Therefore, following the above judgment of the Division Bench, the impugned proceedings dated 25.02.2015, are set aside. The respondents are directed to settle the entire terminal benefits to the petitioner in 12 equal monthly instalments together with the simple interest at 6% per annum on the expiry of three months from the date of retirement benefits of the petitioner, in default, to pay interest at the rate of 18% per annum from the date of retirement till the date of payment. The first instalment shall commence from January 2020 and the terminal benefits shall be paid on or before the 10th of the said month and the remaining instalments shall be paid on or before the 10th day of every succeeding month till the entire payment is made. As far as the pension is concerned, since the Pension Fund Trust is not a service company, the respondents are directed to send pension proposal



of the petitioner to the TNSSTC Pension Fund Trust and on receipt of such proposal, it is for the Pension Fund Trust to pass orders thereon within four weeks from the date of receipt of the pension proposal.

With the above direction, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

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

2)The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Tiruchirapalli Region,
Periya Milaguparai, Tiruchirapalli-1.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-104060[F] dated 09/12/2019)

W.P(MD)No.7631 of 2015
09.12.2019

_KK/SAR/16.12.2019/3P-4C/