



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.25393 of 2018

WEB COPY

J.Karunaianandan

... Petitioner

vs.

1.The General Manager,
The Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Bypass Road, Madurai.

2.The Administrator,
The Tamil Nadu State Transport
Corporation Provident Fund Trust,
Thiruvalluvar Illam, Pallavan Salai,
Chennai-600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Mandamus, to direct the respondents to settle the petitioner's retirement benefits including Provident Fund, Gratuity and monthly pension payable to the petitioner with reasonable rate of interest within the time that may be stipulated by this Court.

For Petitioner	:	Mr.G.M.Xavier
For Respondents	:	Mr.J.Senthilkumaraiah Standing Counsel

O R D E R

The petitioner herein had joined the respondent Corporation as a Conductor on 21.10.1985 and after about 17 years of service, he was dismissed from service on 01.12.2003, on proven misconduct that he issued half ticket to the passenger after receiving fare from three passengers. When the non-employment was challenged by the petitioner herein before the Labour Court, Madurai in I.D.No.81 of 2011 and by an award dated 08.10.2012, the petitioner was directed to be reinstated into services within a period of three months from the date of the award, but without back wages and other benefits. The management had challenged the said award in W.P.(MD)No.6204 of 2013 and this Court, by an order dated 19.07.2018, disposed of the writ petition modifying the award of the Labour Court by observing that the petitioner herein shall be entitled to get back wages at 50% for the period between his date of superannuation on 30.06.2014. It was



also observed therein that the back wages under Section 17B of the Industrial Disputes Act paid to the petitioner shall be deducted out of the aforesaid sum. Though the order was passed on 19.07.2018, the respondent herein had not implemented the order and therefore, he was constrained to give a representation on 03.12.2018, which was also not considered and thereby the petitioner herein was constrained to file the present writ petition.

2.It is not in dispute that the award of the Labour Court, as modified by this Court in W.P.(MD)No.6204 of 2013, has become final. While that being so, there is a duty cast and the respondent corporation to forthwith disburse the back wages as per order passed by this Court in W.P.(MD)No.6204 of 2013.

3.The learned Standing Counsel for the respondent corporation would submit that since the respondent corporation is in financial constraint, this Court may consider payment of the back wages through equated installments as being ordered in W.A.(MD)No.383 of 2015, dated 12.06.2015 by a Hon'ble Division Bench of this Court.

4.A perusal of the said order of the Hon'ble Division Bench reveals that the law was not laid down to the effect that in all cases of disbursement of back wages, the same has to be done in 12 equal installments. On the other hand, such discretion to award payment to all back-wages depends on the facts and circumstance of each and every cases. In this case, the award of the Labour Court was passed in the year 2012 and the petitioner had reached the age of superannuation on 30.06.2014. After having waited for almost more than seven years, it would not be now proper to consider the financial difficulties of the corporation and thereby put the petitioner into further prejudice.

5.Taking into account that the petitioner is also a senior citizen, who may require this accumulated back wages for his purpose, this Court is not in agreement with a submission made by the learned Standing Counsel for the respondent Corporation.

6.In the light of the above observations, there shall be a direction to the respondent Corporation to settle the petitioner's retirement benefits including Provident Fund, Gratuity and the arrears of pensions together with interest at the rate of 6% per annum, from the date, when such payment had become payable, till the date of actual payment. Such a disbursement shall be done at least within a period of three months from the date of receipt a copy of this order.



7.The Writ Petition stands allowed accordingly. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

Sji

TO

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