



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.15989 of 2017

G.Rajendran

... Petitioner

Vs.

1.The Management of
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Trichy Region,
Rep. by its, General Manager,
Trichy.

2.The Administrator,
Tamil Nadu State Transport Employees Pension Fund Trust,
Thiruvalluvar Illam,
Anna Salai,
Chennai-2.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to count the earlier service of the petitioner from 20.02.80 to 22.06.1998 as part of his pensionable service, along with his service from 23.06.98 to 31.03.2016, by remitting the employer contribution of the P.F., for the same and to sanction him full pension under the Tamil Nadu State Transport Employees Pension Fund Rules; and also directing respondents to fix his pension based on the monthly wages payable to him on the month of his retirement as revised/re-fixed as per G.O(MS)No.81, Transport Department, Government of Tamilnadu, dated 16.09.16 and to pay him pension, along with arrears and consequential benefits from 01.04.2016, after adjusting the reduced pension now being paid to him, together with 18% interest p.a.,

For Petitioner : Mr.S.Arunachalam
For Respondents : Mr.D.Sivaraman

ORDER

The petitioner has come out with the present writ petition seeking for a mandamus, directing the respondents to count the earlier service of the petitioner from 20.02.1980 to 22.06.1998 as part of his pensionable service, along with his service from 23.06.1998 to 31.03.2016 and for other relief stated above.

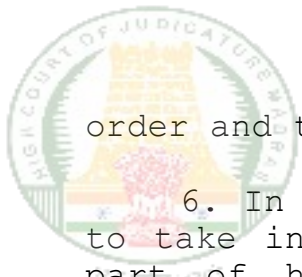


2. The petitioner was working as Junior Tradesman. He was dismissed from service by the order dated 25.04.1991. The petitioner raised an Industrial Dispute in I.D.No.55 of 1996 before the Labour Court, Trichy. The Labour Court, Trichy, set aside the order of dismissal and directed the first respondent to re-employ the petitioner as fresh entrant. The Labour Court, Trichy, did not grant back wages, continuity of service and attendant benefits. The petitioner filed a writ petition in W.P.No.3482 of 1999 challenging the portion of the award. This Court, by the order dated 16.07.2008, modified the award directing the first respondent to treat the period of service rendered by the petitioner from 28.02.1980 to 23.06.1998 as part of his service for terminal benefits. The first respondent refused to count the said period while calculating the pension payable to the petitioner. Further, as per G.O.(Ms)No.81, Transport Department, dated 16.09.2016, the Government increased the Grade pay of employees like petitioner with effect from 01.09.2013 and the same is applicable to the petitioner. The first respondent is liable to take into account the increased Grade Pay while calculating the pension payable to the petitioner. Therefore, the petitioner has come out with the present writ petition.

3.Mr.D.Sivaraman, learned counsel appearing for the respondent contended that the petitioner was dismissed from service for his proven misconduct. The Labour Court, Trichy, set aside the order of dismissal and directed the first respondent to give employment to the petitioner as fresh entrant. In view of the same, the petitioner is entitled to the benefits only from the date of re-employment. G.O.(Ms)No.81, Transport Department, dated 16.09.2016 was passed after the petitioner retired from service and therefore, the same is not applicable to the petitioner. The pension now paid to the petitioner is proper and correct. Pending writ petition, the petitioner's past service was taken into account for calculating pension and he is paying revised pension from February, 2019 and his representation will be considered for revision of Grade pay and therefore, prayed for dismissal of the writ petition.

4.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

5. From the materials on record, it is seen that the Labour Court, Trichy, set aside the order of dismissal and directed the first respondent to give employment as fresh entrant. The Labour Court, Trichy, did not grant back wages and continuity of services. The petitioner filed W.P.No.3482 of 1999 challenging the award. This Court, by the order dated 16.07.2008, modified the award directing the respondents to treat the period of service rendered by the petitioner from 28.02.1980 to 23.06.1998 as part of his service for terminal benefits. The petitioner has not challenged the said



order and the said order has become final.

6. In view of the order of this Court, the first respondent has to take into account the period from 28.02.1980 to 23.06.1998 as part of his service for calculating pension. Admittedly, the respondents have taken into account the past services of the petitioner and calculated the pension. The petitioner who is being paid with the revised pension only from February, 2019, is entitled to enhancement of Grade Pay as per G.O.(Ms)No.81, Transport Department. Even though G.O.(MS)No.81, Transport Department is dated 16.09.2016, the benefits given to the similarly placed persons like the petitioner with effect from 1.9.2013. On that day, the petitioner was in service. In view of the order of this Court, the first respondent is directed to recalculate the pension payable to the petitioner taking into account the period from 28.02.1980 to 23.06.1998 and G.O.(Ms)No.81, Transport Department, dated 16.09.2016, for pension. The learned counsel for the respondents submitted that the revised pension is paid only from February, 2019. Therefore, the second respondent is directed to pay the arrears of pension, within a period of twelve weeks from the date of receipt of a copy of this order.

7. In view of the above, the writ petition is partly allowed. No costs.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The General Manager, The Management of
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Trichy Region, Trichy.

2. The Administrator,
Tamil Nadu State Transport Employees Pension Fund Trust,
Thiruvalluvar Illam, Anna Salai, Chennai-2.

+1CC TO MR.D.SIVARAMAN, Advocate Sr. No.86596

+1CC TO MR.S.ARUNACHALAM, Advocate Sr. No. 87100

W.P. (MD) No.15989 of 2017

13.09.2019

PM(CO)

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