

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 20.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 13592 OF 2013

P.I.James

.. Petitioner

- Vs -

1. The Management of Metropolitan Transport Corporation (Chennai) Ltd.  
Anna Salai, Chennai 600 002.
  2. The Financial Advisor-cum-Principal Accounts Officer  
Metropolitan Transport Corporation (Chennai) Ltd.  
Anna Salai, Chennai 600 002.
- .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the 1<sup>st</sup> respondent letter NO.19003/ku o2/ma po k/2013 dated 9.1.13, quash the same and consequently direct the 2<sup>nd</sup> respondent to revise the gratuity, pension and other terminal benefits to the petitioner based on revised basic pay of Rs.14,005/-.

For Petitioner : Mr. S.T.Varadarajulu

For Respondents : Mr. K.Moorthy

ORDER

The petitioner joined the services of the 1<sup>st</sup> respondent Corporation as conductor on 20.4.1979. In the course of his duty, the petitioner suffered ailment for which, after due intimation, leave was availed by the petitioner. However, on getting well, the petitioner was allowed to join the services belatedly. Further, disciplinary proceedings were initiated against the petitioner, which culminated in inflicting the punishment of postponement of annual increment for a period of two years with cumulative effect. Against the said order, an appeal was preferred by the petitioner before the 1<sup>st</sup> respondent,

the appellate authority, who, after superannuation of the petitioner, passed an order modifying the punishment to imposition of a fine of Rs.50/-, while denying arrears to the petitioner. Subsequent to the modification of punishment, the basic pay of the petitioner ought to have been reworked from Rs.13,450/- to Rs.14,005/- and pension and other terminal benefits ought to have been calculated on the basis of the recalculated basic pay. In this regard, the petitioner approached the respondents several times to have recomputation of his basic pay. However, vide the impugned order, the 2<sup>nd</sup> respondent has informed the petitioner that there is no provision to revise the pension and, accordingly, rejected his request. Aggrieved by the said, which has been passed without due application of mind by the 2<sup>nd</sup> respondent, the present petition has been preferred.

2. Learned counsel appearing for the petitioner submits that once the punishment imposed by the disciplinary authority stood modified by the appellate authority, it is incumbent on the part of the respondents to rework the salary of the petitioner and pay the pension and other terminal benefits based on the said recalculation. However, without proper application of mind to the order of the appellate authority, the 2<sup>nd</sup> respondent has rejected the request of the petitioner which deserves to be interfered with.

3. On the above contention this Court heard the learned standing counsel appearing for the respondents and perused the materials available on record.

4. The facts are not in dispute, so also the order of the appellate authority modifying the punishment imposed on the petitioner by the disciplinary authority. A perusal of the order of modification passed by the appellate authority reveals that the said authority while modifying the punishment and has categorically stated in the petitioner would not be entitled for arrears for the said period. The relief sought for by the petitioner is that he is not claiming any arrears of pay for the said period, but only wants the respondents to rework his basic pay and pay him the revised pensionary and other terminal benefits. The said relief sought for by the petitioner is wholly justified in the facts and circumstances of the case. Once the appellate authority has modified the punishment as stated above, it is incumbent on the part of the respondents to recalculate all the terminal benefits, including the pension, payable to the petitioner on the basis of the said order. It is not open to the respondents to take a stand and claim that there is no provision for recalculating the pension. Once the order

was passed by the appellate authority, the respondents, on their own volition ought to have taken steps to recalculate the pensionary benefits and other terminal benefits payable to the petitioner.

5. For the reasons aforesaid, this writ petition is allowed setting aside the order impugned herein and the petitioner is directed to submit a fresh representation to the 2<sup>nd</sup> respondents along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and on such representation being filed, the 2<sup>nd</sup> respondent is directed to recalculate the basic pay of the petitioner and upon such recalculation, pay the pensionary and other terminal benefits to the petitioner within a period of three months from the date of receipt of the representation. However, there shall be no order as to costs.

-s/d-  
Assistant Registrar

True Copy  
Sub-Assistant Registrar

GLN

To

1. The Management of Metropolitan Transport Corporation (Chennai) Ltd.  
Anna Salai, Chennai 600 002.
2. The Financial Advisor-cum-Principal Accounts Officer  
Metropolitan Transport Corporation (Chennai) Ltd.  
Anna Salai, Chennai 600 002.

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