

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.33367 of 2014

K.N Sivan Malai

..... Petitioner

Versus

1.The Administrator,
Tamil Nadu State Transport Corporation,
Employees Pension Fund Trust,
Administrative Office,
Thiruvalluvar House,
Pallavan Salai, Chennai-2.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Coimbatore) Ltd.,
37, Mettupalayam Road,
Coimbatore-641 043

3.The General Manager,
Tamil Nadu State Transport Corporation,
Chennimalai, Erode-1

4.The Senior Accounts Officer,
Tamil Nadu Transport Corporation,
Mettupalayam Road,
Coimbatore Division Ltd.,
Coimbatore.

.....Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents/ Management to take into account the entire service of 29 years of the petitioner as qualifying service to revise the basic pay, salary and re-fix proper pension on par with similarly placed, Colleagues who had joined respondent Corporation along with the petitioner as Driver during the year 1977 and to pay the consequential arrears thereof with due interest.

For Petitioner : Ms.Girija

For Respondent : Mr.C.S.K Sathish for R1
Mr.A.Sundaravadhanam for R2 to R4

ORDER

This writ petition has been filed for a direction to the respondents/ Transport Corporation to take into account the entire service of 29 years of the petitioner as qualifying service to revise the basic pay, salary and re-fix proper pension on par with similarly placed, who had joined the respondent Corporation along with the petitioner as Driver during the year 1977 and to pay the consequential arrears thereof with due interest.

2. According to the petitioner, he was appointed as Driver in the Respondent/Transport Corporation on 07.12.1977 and after rendering 29 years of service, he retired on 28.02.2007. During the course of his service, he was dismissed on 23.02.1999 for the charge levelled against him for the alleged accident that took place on 22.04.1998. Challenging the dismissal, the Petitioner filed I.D.No.286/99 before the Labour Court, Salem, wherein, vide Award dated 19.03.2003, the respondent/Transport Corporation was directed to reinstate the Petitioner with continuity of service and other attendant benefits, however, his claim for backwages was rejected. The said Award was challenged by both the respondents as well as the petitioner by filing W.P. No.33337 of 2004. Subsequent to the issuance of interim order, dated 23.02.2005, the Petitioner was reinstated into service on 08.05.2005. Thereafter, he attained the age of superannuation and retired from service on 28.02.2007. Subsequently final orders were passed by this Court in the said Writ Petition on 30.10.2009, confirming the Award of the Labour Court, Salem in I.D.No.286 of 1999. The case of the Petitioner is that, though the order of dismissal was set aside by the Labour Court and confirmed by this Court, the respondents have not taken into account his full period of service. Hence this Writ Petition.

3. When the matter was taken up for consideration, learned counsel for the petitioner submitted that, it would suffice if a direction is issued to the Respondent/Transport Corporation to consider the case of the Petitioner within a reasonable time, in the light of the Award passed in I.D.No.286 of 1999, wherein continuity of service was permitted to the petitioner, which was confirmed by this Court vide order dated 30.10.1999.

4. Per contra, learned counsel appearing for Respondents 2 to 4, reiterating paragraphs 7, 8 and 9 of the counter Affidavit, submitted that, the petitioner is not eligible for full pension and as such, the non-employment period would be taken as leave on loss of pay. However, he does not have any serious objection if the Respondents are directed to grant the relief sought by the Petitioner in the light of the Award passed by the Labour Court in I.D. No.286 of 1999.

5. Having regard to the submissions made by the learned counsel on either side and without going into the merits of the case, this Court directs the petitioner to make a fresh representation to the Respondents, within a period of two weeks from the date of receipt of a copy of this order and on receipt of such representation, Respondents are directed to consider the same and pass appropriate orders on merits and in accordance with law, in the light of the Award passed in I.D.No.286 of 1999 and the order dated 30.10.1999 passed in W.P.No.33337 of 2004, within a period of twelve weeks.

With the aforesaid directions, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi2

To

- 1.The Administrator,
Tamil Nadu State Transport Corporation,
Employees Pension Fund Trust,
Administrative Office,
Thiruvalluvar House, Pallavan Salai,
Chennai-2.
- 2.The Managing Director,
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- 3.The General Manager,
Tamil Nadu State Transport Corporation,
Chennimalai, Erode-1
- 4.The Senior Accounts Officer,
Tamil Nadu Transport Corporation,
Mettupalayam Road,
Coimbatore Division Ltd.,
Coimbatore.

+1cc to Mr.S.Girija, Advocate, S.R.No. 39849

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LN(CO)

GN(29/12/2020)