



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.(MD) No.12309 of 2014

P. Mydeen

Petitioner

Vs

1. The Management,
Madurai Corporation,
Anna Maligai,
Madurai.

2. The Superintending Engineer,
Madurai Electrical Undertaking,
Acquisition Circle,
Tamil Nadu Electricity Board,
K.Pudur,
Madurai - 7.

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the second respondent in his proceedings க எண் மே பொ/ பெரு/ மது /உ நி அ / நி பி 2 /உ3 /அ No.766/14 dated 13.06.2014 and quash the same and consequently direct the second respondent to issue the retirement benefits and all other monitory benefits along with balance back wages payable to the petitioner by considering his promotion as Line Inspector at the time of his superannuation on 30.04.2014.

For Petitioner : Mr. K.Sudalaiyandi

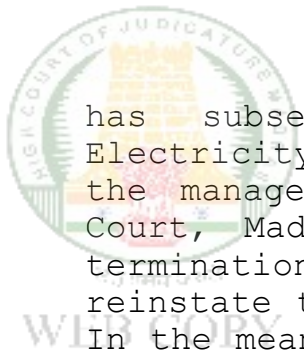
For Respondents : For R1 - Mr.R. Murali

For R2 - Mr.J. Sakthikumaran

O R D E R

This Writ Petition is filed to call for the records pertaining to the second respondent in his proceedings க எண் மே பொ/ பெரு/ மது /உ நி அ / நி பி 2 /உ3 /அ No.766/14 dated 13.06.2014 and quash the same and consequently direct the second respondent to issue the retirement benefits and all other monitory benefits along with balance back wages payable to the petitioner, by considering his promotion as Line Inspector at the time of his superannuation on 30.04.2014.

2. The case of the petitioner is that while he was working as Helper in the first respondent Corporation, he was placed under suspension from 23.06.1994, due to his unauthorized absent from duty from 16.06.1994. The petitioner has filed a case in I.D.No.119 of 1995 before the Labour Court, Madurai, challenging the order of termination passed by the first respondent. The second respondent



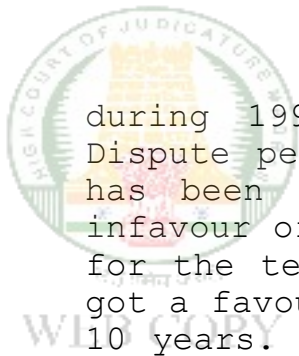
has subsequently made acquisition of the first respondent Electricity Wing on 30.04.1995, thereby the petitioner came under the management of second respondent. On 16.09.2004, the Labour Court, Madurai has passed an award and set aside the order of termination dated 27.12.1994 and directed the second respondent to reinstate the petitioner with continuity of service and back wages. In the meantime, the second respondent has filed a Writ Petition in W.P.(MD)No.2264 of 2006, before this Court, against the order passed by the Labour Court, which was dismissed on 02.08.2011, for non-prosecution. Later on, the petitioner has sent a representation to the second respondent seeking all the benefits payable to him by considering his junior's promotion. On 11.02.2014, the petitioner has filed Writ Petition in W.P.(MD) No.2227 of 2014 against the respondents, in which, this Court directed the second respondent to consider the petitioner's representation and to pass appropriate orders on merits and in accordance with law. On 13.06.2014, the second respondent passed the impugned order stating that the restoration petition filed by them in SR.No.66664 of 2013 dated 25.10.2013, to restore the earlier Writ Petition in W.P.(MD)No.2264 of 2006 is pending and refused to settle all the benefits to the petitioner. Therefore, the petitioner has preferred this Writ petition.

3. The learned counsel for the petitioner submitted that without adhering the directions issued in the order passed by the Labour Court, Madurai on 27.12.1994, the second respondent has filed a Writ Petition in W.P.(MD) No.2264 of 2006, which was dismissed on 02.08.2011, for non-prosecution and subsequently, the second respondent has filed restoration petition in the year 2013 to restore the Writ Petition filed during the year 2006, and finally passed an order refusal to settle the benefits to the petition, stating the reason that the restoration petition has been filed. Hence, the petitioner prays this Court to set aside the impugned order and seeks direction to the second respondent to settle all the benefits, which the petitioner may be entitled to.

4. On the other hand, the learned counsel for the second respondent submitted that initially the petitioner was appointed in the first respondent corporation. Subsequently, on acquisition made by the second respondent, he came under the management of second respondent. The learned counsel further submitted that for the proven charges only, the petitioner was terminated from his service. The learned counsel further submitted that the petitioner has not even worked for a single day with the second respondent and hence he is not at all entitled for any monitory benefits.

5. Heard both sides and perused the documents available on record.

6. On perusal of the records shows that the petitioner was appointed in the first respondent corporation in the year 1971. 23 years, he had been terminated from his service



during 1994, against which the petitioner had filed Industrial Dispute petition in I.D.No.119 of 1995, in which counter affidavit has been filed only in the year 1998 and the order was passed infavour of the petitioner during 2004. It is pertinent to note that for the termination order passed in the year 1994, the petitioner got a favourable order during 2004 only, after struggling for nearly 10 years. Against the order passed by the Labour Court, Madurai on 27.12.1994, the second respondent has filed a Writ Petition in W.P (MD) No.2264 of 2006, which was dismissed on 02.08.2011, for non-prosecution and subsequently, the second respondent is said to have filed restoration petition in the year 2013 to restore the Writ Petition filed during the year 2006. On 13.06.2014, the second respondent had passed an order of refusal to settle the benefits to the petitioner, stating the reason that the restoration petition is pending. Meanwhile, the petitioner got retired from his service on 30.04.2013.

7. On combined reading of all the orders passed from the date of termination of the petitioner (27.12.1994) to the present impugned order dated 13.06.2014, it is crystal clear that there was an enormous delay in redressing the claim of petitioner, only by the attitude of the respondent. It is unfortunate to stat that even after retirement of the petitioner, his grievance is not redressed by the concerned authority. Literally, the petitioner was struggling for a long period of 26 years. Such an inaction/delay in action cannot be easily brushed aside by this Court. In view of the foregoing reasons, I am inclined to interfere with the impugned order passed by the second respondent.

8. Accordingly, the impugned order passed by the second respondent in his proceedings க எண் மே பொ/பெரு/ மது /உ நி அ / நி பி 2 /உ3 /அ No.766/14 dated 13.06.2014 is hereby set aside. There shall be a direction to the second respondent to implement the order of the Labour Court with continuity of service and settle all monetary benefits and the retirement benefits, on attaining the age of superannuation on 30.04.2017, with interest at the rate of 12% per annum, along with any promotion which is due, if he had continued in service. Such exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the above directions, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

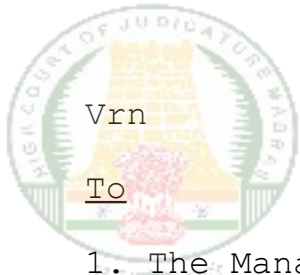
Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



Vrn

To

1. The Management,
Madurai Corporation,
Anna Maligai,
Madurai.

2. The Superintending Engineer,
Madurai Electrical Undertaking,
Acquisition Circle,
Tamil Nadu Electricity Board,
K.Pudur,
Madurai - 7.

+1 CC to M/s.K.SUDALAIYANDI, Advocate (SR-819[F] dated 08/01/2020)

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-827[F] dated 08/01/2020)

+1 CC to M/s.R.MURALI, Advocate (SR-1157[F] dated 09/01/2020)

W.P. (MD) No.12309 of 2014
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KK/SAR/19.02.2020/4P-6C