



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2020

CORAM:

THE HONOURABLE **MR. JUSTICE M.S.RAMESH**

W.P. (MD) No.27313 of 2019

M.Iqbal

... Petitioner

/vs./

1.The Management of
Tamilnadu State Transport Corporation (Kumbakonam) Ltd.,
Karaikudi Region,
Rep by its General Manager,
Karaikudi.

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

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, to direct the first respondent to pay the petitioner wages and all other service benefits for the period from 18.09.2008 to 30.04.2018 as per the award dated 18.09.2008 in I.D.No.126 of 1995 as upheld in order dated 07.09.2018 in W.A(MD) No.225 of 2015 and accordingly to settle and pay all the petitioner terminal benefits for the petitioner entire service period from 01.10.1980 to 30.04.2018 by deducting the amounts already paid to the petitioner together with 18 percent interest per annum from 30.04.2018 and further directing the respondents to treat the petitioner entire service period from 01.10.1980 to 30.04.2018 excluding the period from 18.09.2008 to 17.09.2008 as the petitioner pensionable service and to pay the petitioner pension every month and pension arrears from May 2018 and pension commutation forthwith under the TNTCEPFS pension Rules, together with 18 percent interest per annum award cost.

(Prayer is amended vide Court order dated 10.02.2020 in W.M.P(MD) No.2186 of 2020)

For Petitioner : Mr.S.Arunachalam
For R-1 : Mr.D.Sivaraman
Standing Counsel

For R-2 : Mr.A.Swaminathan
Standing Counsel



ORDER

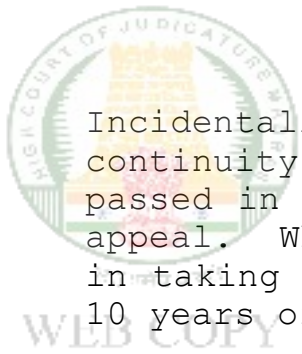
The petitioner herein was originally appointed as Helper in the year 1982 and his services were confirmed on 05.12.1983. On a set of charges, the petitioner was subjected to domestic enquiry and by an order dated 21.04.1983, the petitioner was dismissed from service of the respondent Corporation. Challenging the order of dismissal, the petitioner had raised a dispute in I.D No.126 of 1995 before the Labour Court, Madurai and by an award dated 18.09.2008, the Labour Court had directed the respondents to reinstate the petitioner back into service along with continuity of service and other monetary benefits, except back wages.

2.The rejection of the back wages in the award was challenged by the petitioner in W.P(MD) No.1361 of 2009 and the Management had simultaneously challenged the award directing the reinstatement, in W.P(MD)No.12105 of 2009. Both the writ petitions came to be disposed of by this Court on 26.04.2013 by confirming the award passed by the Labour Court dated 18.09.2008 and thereby, the petitioner's reinstatement was confirmed. The Management had challenged the said order under W.A(MD) No.225 of 2015, which was also dismissed on 07.09.2016. As such, the award of the Labour Court has become final. The effect of the award would be that the petitioner would be entitled for all the monetary benefits from the date of the award i.e., from 18.09.2008, since the plea of back wages was rejected.

3.In the meanwhile, the petitioner had reached the age of superannuation on 30.04.2018 and the first respondent herein also had passed order on 30.07.2018 retiring the petitioner from his service with effect from 30.04.2018. Consequently, the petitioner would be entitled to all the monetary and terminal benefits from the date of award till the date of his reaching age of superannuation namely from 18.09.2008 to 30.04.2018.

4.The learned Standing Counsel appearing for the respondent Corporation would submit that the petitioner herein was not eligible for grant of pension, since he had not completed minimum 10 years of required service and as per the rules and guidelines of the Corporation, he would be entitled only for service gratuity.

5.I am not in agreement with such a submission made. When the petitioner is entitled for all the service benefits as passed in the award by the Labour Court in I.D No.126 of 1995, the same could be treated only as part of the pensionable service of the petitioner and by calculating this period, it can be said that the petitioner had completed more than 10 years of service and ~~therefore, he would be entitled for the pensionary benefits also.~~



Incidentally, the respondents challenged the award granting continuity of service and the same has been negated by the order passed in the Writ Petition, which was also confirmed in the writ appeal. While that being so, the respondents may not be justified in taking the present stand that the petitioner has not completed 10 years of service.

6. For all the forgoing reasons, this Court is of the view that the petitioner is entitled to succeed. Consequently, there shall be a direction to the first respondent to pay the wages to the petitioner for the period commencing from 18.09.2008 to 30.04.2018, in terms of the award passed in I.D No.126 of 1995 dated 18.09.2008 and disburse the arrears along with interest at the rate of 6% per annum at least within a period of eight weeks from the date of receipt of a copy of this order. In view of the award granting continuity of service, the first respondent shall include the petitioner's service from 18.09.2008 to 30.04.2018 and thereby, treat the said period as a "service period" and recommended the petitioner's case for payment of pension, as well as the disbursement of the pension arrears, from the date of the petitioner's retirement, which process shall also be completed at least within a period of eight weeks from the date of receipt of a copy of this order. Thereafter, the petitioner shall be paid with the monetary pension regularly without any default.

7. At this juncture, the learned Standing Counsel for the respondent Corporation would submit that in view of their stand that since the petitioner is not eligible for pension, service gratuity and other monetary benefits have already been paid to the petitioner. In case, such service gratuity has been paid in lieu of pensionary benefits, the respondents are at liberty to adjust the same out of the pensionary benefits payable on commutation of the pension. While adjusting the said amount, the respondents shall also furnish the detailed calculation to the petitioner about the adjustment made.

8. With the above directions, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar (CS)



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W.P. (MD) No.27313 of 2019

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-5447[F] dated 10/02/2020)

Order made in
W.P. (MD) No.27313 of 2019
10.02.2020

AP(10.03.2020) 4P 2C