

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 09.02.2021

CORAM:

THE HON-BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.28148 of 2011

R.Mani

... Petitioner

Vs.

Tamilnadu State Transport
Corporation (Salem) Ltd.,
Dharmapuri Region,
Rep. by its General Manager,
Dharmapuri.

... Respondent

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to give the petitioner the benefit of annual increment, review benefits, etc., given to the petitioner for the period from 25.09.2004 to 04.05.2007 for the period from 05.05.2007 also and to re-fix his basic pay and salary and other allowances on par with his colleagues and immediate juniors in the post of Conductor with effect from 04.05.2007 with arrears of difference in wages, award costs.

For Petitioner : Mr.Ajoy Khose

For Respondent : Mr.D.Raghu

ORDER

The prayer sought for in this writ petition is to issue a writ of mandamus directing the respondent to give the petitioner the benefit of annual increment, review benefits, etc., given to the petitioner for the period from 25.09.2004 to 04.05.2007 for the period from 05.05.2007 also and to re-fix his basic pay and salary and other allowances on par with his colleagues and immediate juniors in the post of Conductor with effect from 04.05.2007 with arrears of difference in wages, award costs.

2.The petitioner was working as Conductor in the respondent Transport Corporation. While so, he met with an accident on 09.05.2003, out of which, he sustained injuries i.e., fractures in the left side hip. Therefore, he was on medical leave for about seven months and thereafter, he was joined duty on

25.12.2003. After joining duty, he was not given light duty. Therefore, it seems that, he filed W.P.No.23289 of 2005 where some orders were passed by this Court on 01.03.2006. Thereafter also the grievance of the petitioner to give light duty and treating the period where he was on medical leave for seven months to be treated as leave with wages was not considered. Therefore, it seems that, he has filed another writ petition in W.P.No.409 of 2004, where also some positive orders were passed in favour of the petitioner. After these two round of litigations and after filing a contempt petition in this regard by the petitioner in Contempt Petition No.460 of 2007, the respondent issued an order dated 04.05.2007 where alternative employment of Helper was provided to the petitioner. However, in the said order, the period between 25.09.2004 and 05.05.2007 was treated only on loss of pay, accordingly, he joined as Helper on 05.05.2007. However, challenging the orders passed i.e, the said period treated as leave on loss of pay, the petitioner filed another writ petition in W.P.No.4702 of 2009 where also orders were passed by this Court. Pursuant to which, the respondent paid the money for the said leave period to the extent of Rs.2,64,752/- after deducting a sum of Rs.41,694/- towards PF contributions and TDS amount. However, according to the petitioner, though the backwages had been paid for the said period, the said leave period was not taken into account for the purpose of revision of pay and accordingly, the revision of pay was not made to the petitioner and it has not been paid to the petitioner.

3. In order to redress these grievances, the petitioner had given representations to the respondent on 17.03.2011, 20.06.2011 and 08.10.2011. However, those representations since have not been considered, the petitioner approached this Court and filed this writ petition with the aforesaid prayer.

4. Heard Mr.V.Ajoy Khose, learned counsel appearing for the petitioner and he has reiterated the facts and seeks indulgence of this Court.

5. Mr.D.Raghu, learned counsel appearing for the respondent would submit that, pursuant to the orders passed by this Court, the leave period was treated as duty period and accordingly, the salary in lieu of the leave period was paid admittedly. Therefore, further question of considering his leave period as duty period for the purpose of fixing the salary as claimed by the petitioner may not arise. However, in this regard, since the petitioner has given some representation as claimed by him in the year 2009, the copy of the representations can once again be forwarded to the respondents and accordingly, those representations would be considered and disposed of on merits and in accordance with law within the time that may be

stipulated by this Court.

6.Considering the aforesaid submissions made by the learned counsel appearing for the parties and after having gone through the aforesaid factual matrix and the records placed before this Court, this Court is inclined to dispose of this writ petition with the following orders.

(i) The respondent is hereby directed to consider the representations of the petitioner dated 17.03.2011, 20.06.2011 and 08.10.2011 and pass orders on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

(ii) Along with the copy of this order, let the copy of the said representations be also forwarded by the petitioners to the respondent and on receipt of the same, the needful, as indicated above, shall be undertaken by the respondent.

7.With these directions, this writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Sgl

To

The General Manager,
Tamilnadu State Transport
Corporation (Salem) Ltd.,
Dharmapuri Region,
Dharmapuri.

+1cc to Mr.V.Ajoy Khose, Advocate SR.7357

+1cc to Mr.D.Raghu, Advocate SR.7353

SMI (CO)
CB(16/03/2021)

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