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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.03.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5357 of 2021
(Heard through VC)

G.Subramaniam

..Petitioner

-vs-

M/s.State Express Transport Corporation,
Rep. by its Managing Director,
No.2, Pallavan Salai,
Chennai - 600 002.

..Respondent

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondent to sanction pension from February 2015 and pay the consequential pension arrears from February 2015 to February 2021 with 6% interest to the petitioner here.

For Petitioner : Mr.D.Soundar Raj
For Respondents : Mr.K.Kathiresan

O R D E R

The petitioner has come up with this writ petition seeking a direction to the respondent to sanction pension from February 2015 and pay the consequential pension arrears from February 2015 to February 2021 with 6% interest to him.

2. Mr.K.Kathiresan, learned counsel takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The petitioner has already approached this Court for seeking similar benefits and this Court had directed the respondent therein to pass appropriate orders and communicate the decision taken thereon to the petitioner. After a lapse of six years, once again the petitioner has come up with the similar prayer. The petitioner has the benefit of the order and



if the order is not implemented, then the remedy open to the petitioner is to initiate Contempt proceedings. The contention that the petitioner has not initiated Contempt proceedings within a period of twelve months in terms of Section 20 of the Contempt of Courts Act, cannot be accepted. The powers of this Court cannot be curtailed, contending that the powers under Article 215 of the Constitution of India are abridged by Section 20 of the Contempt of Courts Act, as the powers under Constitution are supreme than the powers enumerated under the Contempt of Courts Act. This Court has already dealt with the said issue in W.P.No.20049 of 2020 (S.Jubithabi vs. Government of Tamil Nadu and others) decided on 04.01.2021.

5. In view of the same, liberty is given to the petitioner to initiate Contempt Proceedings against the respondent. This Court has already held that in case willful and deliberate disobedience is proved, imprisonment is primary and fine is secondary. It is also needless to mention, if no amount is paid in terms of the Award, it is open to the petitioner to initiate prosecution under Section 29 of the Industrial Disputes Act, 1947 against persons falling under Section 32 of the Industrial Disputes Act, 1947. While preferring a complaint, there is no need to include the Management as a party to the proceedings, as only under the provisions of Negotiable Instrument Act, the Management needs to be made as a party, as the Industrial Disputes Act, 1947 is a Social Welfare Legislation, in which the prosecution is made only against the officials and not against the Management. If any complaint is made, the prosecution must be sanctioned by the Government without any further delay, as the Award passed by the Tribunal (Labour Court) is continuous in nature till it is substituted by another Award or settlement in the light of the decision of the Hon'ble Supreme Court in the case of The Life Insurance Corporation of India vs. D.J.Bahadur and others, reported in 1980 AIR 2181.

6. With the above observation and direction, the writ petition is disposed of. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rsi



To

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The Managing Director,
M/s.State Express Transport Corporation,
No.2, Pallavan Salai,
Chennai - 600 002.

+1 CC to Mr.D.Soundar Raj, Advocate sr 14813.
+1 CC to Mr.K.Kathiresan, Advocate sr 14473.

W.P.No.5357 of 2021

PMK(CO)
SP(22/07/2021)