



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.7794 of 2021

WEB COPY

S.Shanmugam

... Petitioner

vs.

1.The Tamil Nadu State Transport Corporation
(Madurai) Limited,
Rep. by its Managing Director,
Madurai Region,
Bye-Pass Road,
Madurai.

2.The General Manager,
The Tamil Nadu State Transport Corporation
(Madurai) Limited,
Madurai Region,
Bye-Pass Road,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to sanction the petitioner's salary for a period of 33 months with reasonable rate of interest and retirement benefits, more particularly, monthly pension payable to the petitioner from the date of his superannuation based on his representation, dated 13.01.2021 within the time frame fixed by this Court.

For Petitioner : Mr.G.M.Xavier

For Respondents : Mr.J.Senthil Kumariah

ORDER

This Writ Petition is filed seeking a Writ of Mandamus, directing the first respondent to sanction the petitioner's salary for a period of 33 months with reasonable rate of interest and retirement benefits, more particularly, monthly pension payable to the petitioner from the date of his superannuation, based on his representation, dated 13.01.2021, within the time frame to be fixed by this Court.

2.According to the petitioner, he joined the service of the first respondent Corporation as Conductor on 20.10.1993 and he was dismissed from service on 05.10.2000, due to unauthorized absence. Hence, the petitioner raised an Industrial Dispute in I.D.No.125 of 2004, on the file of the Labour Court, Madurai, directing the first respondent Corporation to reinstate him into service with continuity



of service. The Labour Court, by an award, dated 14.06.2007, directed the first respondent Corporation to reinstate the petitioner into service with continuity of service, but the respondents implemented the award only on 17.12.2008 ie., after 18 months from the date of award of the Labour Court. The respondents have not paid salary for the period ie., from 14.06.2007 to 17.12.2008.

3.Further, according to the petitioner, on 06.06.2007, he suffered with stroke and applied for medical leave, but the respondents rejected the same and dismissed the petitioner from service on 09.01.2012. Again the petitioner had raised an Industrial Dispute in I.D.No.39 of 2014 before the Labour Court, Madurai. The Labour Court, Madurai, by an award, dated 27.10.2015, directed the first respondent Corporation to reinstate the petitioner into service with continuity of service, but without backwages. The petitioner was reinstated into service only in the year 2016 ie., after 15 months from the date of the award of the Labour Court. Subsequently, the petitioner attained the age of superannuation on 30.01.2020 and retired from service. The first respondent Corporation has not settled the retirement benefits of the petitioner on the ground that he was not having minimum qualifying years of service and not sanctioned the pension. The petitioner sent a representation, dated 13.01.2021, to the first respondent for payment of salary for 33 months and to sanction the retirement benefits. The first respondent has not passed any order. Hence, the petitioner has come out with the present Writ Petition.

4.Mr.J.Senthil Kumariah, learned counsel appearing for the respondents submitted that the Labour Court, Madurai, in I.D.No.125 of 2004, by an award, dated 14.06.2007, has directed the first respondent Corporation to reinstate the petitioner into service with continuity of service within two months from the date of the award. Challenging the said award, the first respondent Corporation filed a Writ Petition in W.P(MD)No.4260 of 2008, on the file of this Court and the same was dismissed only on 25.10.2010. The petitioner was reinstated into service on 17.12.2008. In the said Writ Petition, this Court directed the first respondent Corporation to pay 17(B) wages and the petitioner was paid with 17(B) wages from 30.04.2008 to 17.12.2008 ie., till the date of reinstatement. Hence, the petitioner is not entitled for the salary for the period now alleged to have been claimed in the Writ Petition. Further, the learned counsel submitted that the award of the Labour Court, Madurai, in I.D.No.39 of 2014, dated 27.10.2015, was implemented by reinstating the petitioner in December, 2016, after obtaining approval from the Board. In view of the same, the petitioner is also not entitled to any salary for the period from 27.10.2015 to December 2016.



5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

6. From the materials available on record, it is seen that the respondents have not complied with the award of the Labour Court, Madurai in I.D.No.125 of 2004 and I.D.No.39 of 2014 immediately. In both the occasions, the petitioner was reinstated into service after delay of considerable time. According to the learned counsel for the respondents, the Labour Court, Madurai, in I.D.No.125 of 2004, dated 14.06.2007, has directed the first respondent Corporation to reinstate the petitioner into service with continuity of service within two months. Hence, the first respondent Corporation ought to have reinstated the petitioner into service from September, 2007. But, he was reinstated into service only on 17.12.2008. In view of the submission made by the learned counsel for the respondents that the petitioner was paid wages from 30.04.2008 to 17.12.2008, the petitioner is entitled to salary from September, 2007 to March, 2008, for a period of 7 months.

7. Further, the Labour Court, Madurai, in I.D.No.39 of 2014, dated 27.10.2015, directed the respondents to reinstate the petitioner into service with continuity of service within three months. The respondents Corporation ought to have reinstated the petitioner from February 2016, but he was reinstated only in December, 2016. Hence, the petitioner is entitled to salary from February, 2016 to November, 2016, for a period of 10 months. According to the petitioner, the respondents Corporation have not paid the retirement benefits and not sanctioned the pension on the ground of not having minimum qualifying service. The respondents have not taken into account the above period. In view of the same, the respondents are directed to take into account the delay in implementing the award as period of duty and calculate the pension by considering the representation of the petitioner, dated 13.01.2021 and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above directions, the Writ Petition is disposed of. No costs.

Sd/-

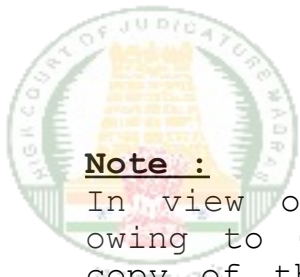
Assistant Registrar(P & A)

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/ /2021

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Tamil Nadu State Transport Corporation
(Madurai) Limited,
Rep. by its Managing Director,
Madurai Region,
Bye-Pass Road,
Madurai.

2.The General Manager,
The Tamil Nadu State Transport Corporation
(Madurai) Limited,
Madurai Region,
Bye-Pass Road,
Madurai.

+1 CC to M/s.G.M.XAVIER, Advocate (SR-18012[F] dated 29/04/2021)

W.P (MD) No. 7794 of 2021
29.04.2021

ES (CO)

TR(10.06.2021) 4P 4C