



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.12.2021**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD)Nos.12859 & 14242 of 2018

and

W.M.P. (MD)No.12893 of 2018

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W.P. (MD)Nos.12859 of 2018:

R.Masanam

...Petitioner

/Vs./

1.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye Pass Road, Madurai - 16.

2.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Trust,
Pallavan Salai, Chennai - 2.

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus directing the respondents for grant of 50% of back wages with continuity of service from the date of dismissal on 22.03.2007 till the date of superannuation on 31.08.2012 and consequently to grant pensionary benefits from the date of appointment on 22.03.1982 till the date of superannuation on 31.08.2012 in terms of award of the Labour Court, Trichy in I.D.No.31 of 2009, dated 27.09.2016 along with the interest at the rate of 9%.

For Petitioner : Mr.S.Govindan

For Respondents : Mr.J.Senthil Kumaraiah

W.P. (MD)Nos.14242 of 2018:

The Management,
Tamil Nadu State Transport Corporation (Madurai Division) Ltd.,
Bye Pass Road,
Madurai.

...Petitioner

/Vs./

1.The Presiding Officer,
Labour Court,
Trichy.

2.R.Masaanam

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari calling for the records in I.D.No.31 of 2009 dated 27.09.2016 on the file of the Respondent and quash the same.



For Petitioner : Mr.J.Senthil Kumaraiah
For R2 : Mr.S.Govindan
For R1 : Labour Court

COMMON ORDER

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The writ petition in W.P.(MD)No.14242 of 2018 is filed by Tamil Nadu State Transport Corporation (Madurai) Division challenging the order passed in Industrial Dispute bearing No.31 of 2009 dated 27.09.2016.

2.The cross writ petition ie., W.P.(MD)No.12859 of 2018 has been filed by the employee of the State Transport Corporation arrayed as respondent in previous writ petition seeking a mandamus directing the State Transport Corporation to grant 50% backwages with continuity of service from the date of dismissal on 22.03.2007 till the date of superannuation on 31.08.2012 and consequential pensionary benefits in terms of the award of the Labour Court dated 27.09.2016.

3.At the outset, this Court had noted that though the impugned award was dated 27.09.2016, the writ petition in W.P.(MD) No.14242 of 2018 had been filed by the State Transport Corporation only on 25.04.2018 and explanation was sought for the intervening delay.

4.An affidavit has been filed by the Transport Corporation that confirms the position that the award dated 27.09.2016 had been received by the Management on 31.10.2016. The same was referred for legal opinion as to fitness for appeal and the legal opinion certifying such fitness was received on 19.11.2016 and administrative sanction was also sought.

5.The petitioner / Transport Corporation would state that while this was so, a proposal had been received by it from the employee on 29.05.2017 submitting a petition for release of terminal benefits and pension and in turn agreeing to waive the backwages awarded by the Labour Court. According to the petitioner, the intervening delay was caused by reason of the aforesaid request that was pending negotiation.

6.I am unable to accept this submission for the reason that the request of the employee was ultimately rejected stating that he had been involved in various misconducts earlier. The track record of the employee is well within the knowledge of the Transport Corporation and thus, there is no justification for the delay till April 2018 in considering and rejecting the request of the employee that was given as early as in May 2017.

7.In any event, no such rejection has been placed before me. The explanation put forth for the intervening delay of more than two



years is not acceptable and W.P.(MD)No.14242 of 2018 is thus dismissed.

8.As a consequence, the mandamus as sought for by the petitioner in W.P.(MD)No.12859 of 2018 is liable to be granted and I do so. Let consequential benefits be computed and paid over within a period of six weeks from today. W.P.(MD)No.12859 of 2018 stands disposed as above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

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 Presiding Officer,
Labour Court, Trichy.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye Pass Road, Madurai - 16.
- 3.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Trust,
Pallavan Salai, Chennai - 2.

W.P. (MD) Nos.12859 & 14242 of 2018
13.12.2021

RD(3.01.2022) 3P 4C