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W.P.No.2030 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2022

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THE HONOURABLE Mr. JUSTICE R.SURESH KUMAR

W.P.No.2030 of 2019

P.Haridoss

... Petitioner

Vs

The Management,  
Metropolitan Transport Corporation  
(Chennai) Ltd.,  
Pallavan Illam, Anna Salai,  
Chennai – 600 002.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondent to revise the salary of the petitioner by taking note of increment, intervening settlement benefits and other attendant benefits like review for the non employment period from 24.01.2008 to 13.04.2018.

For Petitioner : Mr.S.T.Varadarajulu

For Respondent : Mr.A.Vinothraj, Standing Counsel

### **ORDER**

The prayer sought for herein is for a writ of mandamus directing the respondent to revise the salary of the petitioner by taking note of increment, intervening settlement benefits and other attendant benefits like Review for the non employment period from 24.01.2008 to 13.04.2018.



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2. The petitioner was working as Conductor at the respondent Transport Corporation, due to some disciplinary proceedings he was removed from service in the year 2007, thereafter the Management had made an application for approval of such removal of service under Section 33(2)(b) of the Industrial Disputes Act, 1947.

3. The said approval petition having been considered was rejected by the concerned authority, as against the said rejection order the Management filed a writ petition that was also, after sometime, dismissed.

4. In the meanwhile, 10 years have gone, for the whole 10 years period, the petitioner had been out of duty thereafter the petitioner was reinstated only in the year 2018 that too pursuant to the order passed by this Court in the writ petition filed by the Management where direction was given to reinstate the petitioner with continuity of service.

5. Even though the petitioner was reinstated on 24.02.2018 his salary according to the petitioner has not been fixed at the agreed rate based on the periodical review undertaken in this regard where the juniors of the petitioner or the persons who have been similarly placed like the petitioner have been fixed higher pay to the extent of nearly Rs.37,600/-



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whereas the petitioner had been fixed only on Rs.21,000/-. Only in order to rectify this pay anomaly to fix the correct pay to the petitioner by taking into account of the continuity of service even in the non duty period from 24.01.2008 to 13.04.2018, the petitioner had given a representation on 30.07.2018 and the said representation also since was not considered by the respondent and no orders have been passed, the petitioner has moved the present writ petition.

6. Heard Mr.S.T.Varadarajulu, learned counsel appearing for the petitioner who having stated about the aforestated facts would seek indulgence of this Court to issue a direction by way of mandamus.

7. Heard Mr.A.Vinothraj, learned counsel appearing for the respondent Transport Corporation who on instruction would submit that, during the pendency of the writ petition filed by the Management, the petitioner already approached the authority concerned /Labour Court by filing claim petition pursuant to the order passed by the Labour Court. In the said claim petition filed by the petitioner, in view of the pendency of the writ petition, no amount or disbursement was made by the respondent Management to the petitioner, therefore the learned counsel appearing for



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the respondent Management would submit that, by calculating the amount payable to the petitioner as per the direction of the Labour Court in the claim petition, the present representation submitted by the petitioner dated 30.07.2018 to fix the correct pay based on the periodical revision extended to various other people like the petitioner would be considered on merits and accordingly the order to that effect would be passed within a time frame that may be stipulated by this Court.

8. Considering the said submission made by the learned counsel appearing for both sides as the petitioner's dismissal order in the year 2007 since was not approved by the authority under Section 33(2)(b) of the Act and that order also was confirmed by the order passed by this Court in the writ petition filed by the Management, no doubt the petitioner would be entitled to get all service benefits like the fixation of correct pay by treating the entire non duty period of 10 years from 2007 to 2018 as a duty period and accordingly the correct pay payable to the petitioner shall be fixed by considering the representation of the petitioner dated 30.07.2018.

9. In that view of the matter, this Court is inclined to dispose of this



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writ petition with the following orders:

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(i) That there shall be a direction to the respondent to consider the representation of the petitioner dated 30.07.2018 and accordingly fix the correct pay payable to the petitioner at various stages of the petitioner's service based on the revision given to other employees like the petitioner and accordingly his correct pay shall be fixed and based on which for the working period, the petitioner's salary itself shall be calculated and be paid to the petitioner including the amount payable by the respondent to the petitioner pursuant to the order passed by the Labour Court in the claim petition filed by the petitioner as submitted by the learned Standing Counsel appearing for the respondent.

(ii) All these indulgence shall be shown by the respondent by complying the orders within a period of eight weeks from the date of receipt of a copy of this order.

10. With this direction, this Writ Petition is disposed of. No costs.

30.08.2022

Index : Yes / No

Speaking Order : Yes / No

Sgl

R. SURESH KUMAR, J.



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To

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