



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19/4/2022

C O R A M

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

A N D

THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

WRIT APPEAL NO.849 OF 2022

1. The Management of Tamil Nadu
State Transport Corporation
(Villupuram Division - II) Ltd
rep. By its Managing Director
Rangapuram
Vellore 9.
2. The Tamil Nadu State Transport Corporation
Employee Pension Trust
rep. By its Administration
Pallavan Salai
Chennai 600 002.

... Appellants/
Respondents

Vs

G. Duraikannu

... Respondent/
Petitioner

PRAYER: Appeal filed under Clause 15 of the Letters Patent to set aside the order, dated 17/3/2021, made in W.P.No.12356 of 2004.

Prayer in W.P.No.12356 of 2004:

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari and Mandamus calling for the records pertaining to the order dated 24.03.2004 passed by the 1st respondent in Letter No.17/13754/PF.4/TNSTC/Pension/2001, quash the same and consequently direct the respondents to pay the petitioner monthly pension with Dearness allowance and health allowance for the petitioner entire service from 01.05.1975 to 31.05.2001, without deducting the pension that the petitioner receiving from the Government of Tamil Nadu for the service rendered in the State Transport Department, with effect from 01.06.2001 with all arrears and consequential benefits and interest at the rate of 18%, Award costs.



For Appellants

...

Mr.G.Saravanakumar

J U D G M E N T

S.VAIDYANATHAN, J

A N D

MOHAMMED SHAFFIQ, J

The present appeal has been preferred against the order, dated 17/3/2021, made in W.P.No.12356 of 2004, allowing the writ petition as prayed for, in the light of the following directions, viz.,

"1. The employer is directed to grant the benefit of continuity of service to the workman and consequently, compute the length of service, make the necessary contribution to enable the workman to receive pension and such contribution for the period of non employment shall be calculated, as per Rules.

2. The above exercise shall be carried out by the respondent/Corporation within a period of two weeks from the date of receipt of a copy of this order."

2. The admitted case hereunder is that the writ petitioner joined the service as a Conductor, in 1963 and absorbed in service and thereafter, for his misconduct, he was dismissed from service, on 19/10/1981. After the failure of conciliation, Industrial Dispute was adjudicated by the labour Court as I.D.No.628 of 1990 and the award was passed, on 26/7/1993, directing the Management to reinstate the workman, with continuity of service and other attendant benefits, but without backwages, holding that termination was not justified. The writ petitioner was reinstated in service, pursuant to the award dated 29/3/1994. On attaining the age of superannuation, on 31/5/2001, the writ petitioner was granted gratuity and other terminal benefits for the entire service from 1981. In the light of the Pension Scheme introduced in 1998 for which Rules have been formulated in the year 2000, the Management took a stand that they will not be in a position to make contribution towards Provident Fund, for the period of non employment and after receiving the contribution of the employee, viz., the writ petitioner, once the award has become final, the entire wages have got to be refixed and he preferred W.P.No.30928 of 2003, seeking for a direction to pay pension for entire service, which was disposed of, on 20/2/2004, directing the Management to consider the representation, which was rejected, on 24/3/2004, stating the order was decided in the writ petition, which is the



subject matter of the writ appeal.

3. The learned Judge, after considering the pleadings of the parties, came to the conclusion that once there is an award, even though backwages have not been granted, and that continuity of service have been given, the petitioner would be entitled to the benefits, for the purpose of getting pension and that the employer will have to pay the contribution for the period of non-employment to enable the employee to get the pensionary benefits.

4. We are of the view that the observation made by the learned Single Judge in paragraph No.9, which is extracted below, does not call for any interference.

"It is to be seen that as per the direction given by this Court in W.P.No.30928 of 2003 filed by the petitioner, the impugned order has been passed. As per the award of the labour Court, even though backwages not granted, continuity of service has been granted. For continued length of service, the petitioner is entitled for receiving pension. This Court, time and again held in various decisions that "once there is an award of reinstatement with continuity of service, the entire period of service will have to be taken into account for all purposes except for paying backwages. It is duty cast upon the employer to remit amount in the PF account so as to enable the petitioner therein to get pension.""

5. Hence, we sustain the order of the learned Single Judge and expect the Management/first appellant, to settle the terminal benefits, within a period of four months, from the date of receipt of a copy of this order, failing which the arrears payable to the employee will carry the interest rate at 6% p.a., from today.

6. With the above direction, this writ appeal is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

mvs.

Sub Assistant Registrar



To

1. The Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram Division - II) Ltd,
Rangapuram,
Vellore 9.

2. The Administration of
Tamil Nadu State Transport Corporation,
Employee Pension Trust,
Pallavan Salai,
Chennai 600 002.

+1cc to Mr.G.Saravanakumar, Advocate, S.R.No.26570

Writ Appeal No.849 of 2022

SSV(CO)
PM/13/05/2022