



WEB COPY



W.P.No.6003 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.09.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.6003 of 2020

C.Franklin Sampath Cecil

..Petitioner

Vs.

1. The Managing Director,
Metropolitan Transport,
Corporation (Chennai) Ltd.,
2, Pallavan Illam,
Anna Salai, Chennai – 600 002.

2. The Administrator,
Tamil Nadu State Transport Corporation,
Employees' Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai, Chennai – 600 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for Writ of Mandamus, directing the respondents to return a sum of Rs.67,664/- to the petitioner, the amount deducted in the petitioner's pension for 8 months with 12% interest from January 2018 till the date of payment.



WEB COPY



W.P.No.6003 of 2020

For Petitioner : Mr.S.T.Varadarajalu
For Respondents : Mr.R.Balaji
Standing Counsel [R1]
: Mr.C.S.K.Sathish
Standing Counsel [R1]

ORDER

The prayer sought for herein is for a writ of mandamus to direct the respondents to return a sum of Rs.67,664/- to the petitioner, the amount deducted in the petitioner's pension for 8 months with 12% interest from January 2018 till the date of payment.

2. The petitioner was an employee of the first respondent Transport Corporation. After rendering long years of service, he retired from service on superannuation on 31.05.2017. Though, he was relieved from duties and permitted to retire on 31.05.2017, only 75% of the pension amount payable to the petitioner as provisional pension is released, remaining 25% of the pension of the petitioner has been withheld.

3. The reason for withholding the 25% of the pension is because there was a disciplinary proceedings pending against him at that time, therefore, awaiting for the decision to be made in the disciplinary



W.P.No.6003 of 2020

proceedings, the 25% amount of the pension has been withheld.

Subsequently, after eight months, the disciplinary proceedings was ended in a punishment of recovery for a sum of Rs.28,840/-(Rupees twenty eight thousand eight hundred and forty) and that amount was also, if at all is recovered, the remaining amount of the 25% of the pension that has been withheld by the respondents Corporation has to be released and paid to the petitioner. However, since the same has not been paid so far to the petitioner, he has given a representation on 01.02.2020, even that was also not considered, the petitioner has approached this Court by filing the present writ petition.

4. Heard Mr. S.T.Varadarajulu, learned counsel appearing for the petitioner, Mr.R.Balaji, learned Standing Counsel appearing for the first respondent and Mr.C.S.K.Sathish, learned Standing Counsel appearing for the second respondent.

5. Learned Standing Counsel appearing for the respondents 1 & 2 would contend that in view of the pendency of the disciplinary proceedings, the 25% of the pension as per Rule, which was in vogue was



W.P.No.6003 of 2020

withheld and therefore, at that time of retirement, the petitioner since was not entitled to get 100% of the pension, only 75% of the pension was released. Insofar as the disciplinary proceedings is concerned, since it is concluded and a penalty has been imposed, under which, a sum of Rs.28,840/-(Rupees twenty eight thousand eight hundred and forty) has to be recovered, only after recovering the said amount, the remaining amount, if any to be released to the petitioner from and out of the withholding 25% of the pension alone would be considered and released to the petitioner.

6. I have considered the said submission made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

7. As has been pointed by the learned counsel appearing for the parties that, only a sum of Rs.28,840/-(Rupees twenty eight thousand eight hundred and forty) was imposed as a penalty for recovery and even after deducting that amount or the amount is paid by the petitioner to the respondents, thereafter, the 25% of pension which has already been



W.P.No.6003 of 2020

withheld at the time of retirement of the petitioner shall be released and the said amount cannot be any more withheld by the respondents.

Therefore, this Court feels that a direction can be given to the respondents to consider the representation of the petitioner and to pass order in that line.

8. In view of the above, this Court is inclined to dispose of this writ petition with the following orders:

- ◆ That there shall be a direction to the first and second respondents to consider the representation of the petitioner dated 01.02.2020 and pass orders thereon releasing the remaining amount, out of the 25% pension amount payable to the petitioner after deducting a sum of Rs.28,840/-(Rupees twenty eight thousand eight hundred and forty) if the petitioner has not paid the same and if the petitioner has already paid the same, the entire remaining 25% of the pension amount shall be calculated and be paid to the petitioner with interest of 4% from the date of completion of the enquiry proceedings till the date of payment.

R.SURESH KUMAR.J,
mp



WEB COPY



W.P.No.6003 of 2020

- ◆ The needful as indicated above shall be undertaken by the respondents within a period of eight(8) weeks from the date of receipt of a copy of this order.

With this direction, this writ petition is disposed of. No costs.

09.09.2022

Index : Yes/No
Internet: Yes/No
mp

To

1. The Managing Director,
Metropolitan Transport,
Corporation (Chennai) Ltd.,
2, Pallavan Illam,
Anna Salai, Chennai – 600 002.
2. The Administrator,
Tamil Nadu State Transport Corporation,
Employees' Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai, Chennai – 600 002.

W.P.No.6003 of 2020