



WEB COPY



Order dated 26.08.2022
W.P.No.16512 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.16512 of 2018

S.Ashokan

S/o.P.Srinivasan

... Petitioner

Vs.

1.M/s.Tamil Nadu State Transport Corporation,
Employees Pension Fund Trust,
represented by its Administrator,
No.2, Pallavan Salai, Chennai - 600 002.

2.M/s.State Express Transport Corporation Ltd.,
represented by its Managing Director,
No.2, Pallavan Salai,
Chennai - 600 002.

... Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to recover the gratuity amount already paid to the petitioner in the cadre of Conductor and to credit the same in the gratuity account in the present cadre and to confer the consequential benefits in the light of the orders passed by the Division Bench of this Court in W.A.No.1059 of 2001 dated 27.01.2004 and in terms of Rule 36(2) and (3) of the Common Service Rule taking into consideration of my representations including the one dated 13.06.2018.



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For Petitioner : Mr.D.Soundar Raj
For Respondents : Mr.C.S.K.Sathish,
Standing Counsel [R1]
Mr.L.S.M.Hasan Fizal,
Standing Counsel [R2]

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondents to recover the gratuity amount already paid to the petitioner in the cadre of Conductor and to credit the same in the gratuity account in the present cadre and to confer the consequential benefits in the light of the orders passed by the Division Bench of this Court in W.A.No.1059 of 2001 dated 27.01.2004 and in terms of Rule 36(2) and (3) of the Common Service Rule taking into consideration of the petitioner's representations including the one dated 13.06.2018.

2. The petitioner was working as a conductor in the respondent transport corporation with effect from 28.02.1981.

3. In the year 1982, while the petitioner was on duty, he met with an accident, pursuant to which disciplinary proceedings were taken and ultimately, he was discharged from duty on 07.05.1992.



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4. Thereafter, based on the recommendation of the Medical Board, the petitioner was taken back and reinstated as a new entrant as Record Clerk with effect from 18.08.1992. In that capacity, the petitioner had worked for 20 years and on superannuation, he retired from service on 30.11.2012.

5. After his retirement, 20 years of service put in by the petitioner as Record Clerk was taken into account for the purpose of calculation of pensionary benefits and accordingly, pension has been paid to the petitioner by the first respondent from the Employees Pension Fund Trust.

6. The grievance of the petitioner is that the past services rendered by him as Conductor for a period of ten years, i.e. from 1981 to 1991 shall also to be taken into account combinedly as a qualifying service for the purpose of calculating pensionary benefits.

7. In this regard, the petitioner has given a detailed representation to the respondents i.e. to both respondents on 13.06.2018 and the said representation since has not been considered, the petitioner has



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approached this Court by filing this writ petition.

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8. Heard Mr.D.Soundar Raj, the learned counsel appearing for the petitioner, who would submit that as per the extant rule, which is available, i.e. governing the service conditions of the persons like the petitioner, the petitioner would be entitled to get the calculation of continuity of service of past services rendered by him as Conductor and therefore, if that is directed to be calculated, the petitioner's pensionary benefits would be further enhanced and therefore, such enhanced pension can be directed to be paid to the petitioner.

9. The learned standing counsel appearing for the first respondent as well as the learned standing counsel appearing for the second respondent would submit that the common cadre rule would apply to the officials of the respondent transport corporation or any other similarly placed corporation officials, but, not for the workers like the petitioner. More so, re-appointment was made in the year 1992. In the very appointment order, it is stated that it was treated as a new entry and therefore, the services rendered by the petitioner earlier as a Conductor cannot be taken into



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account with the present service for the purpose of calculating the pensionary benefits and hence, the other grounds raised by the petitioner are not feasible for consideration, he contended.

10. I have considered the rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

11. Insofar as the plea raised by the petitioner to calculate past services rendered by him as conductor from 1982 to 1991 is concerned, since he worked in the said cadre as a permanent employee, if at all any benefit could be accrued from and out of the said service and whether the same can be taken into account for the purpose of combined service along with the subsequent service as Record Clerk for the purpose of calculating the pensionary benefits based on the extant rule that can be considered and a decision can be taken by the respondents on merits and in accordance with law.



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R.SURESH KUMAR., J

gm

12. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:

That there shall be a direction to the respondents to consider the representation of the petitioner dated 13.06.2018 and pass orders thereon on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

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

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Index : Yes/No

Internet: Yes

gm

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