



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.02.2022

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

W.P.NO.8699 OF 2014
& M.P.NO.1 OF 2014

S.Kannan

...Petitioner

Vs.

Managing Director,
Metropolitan Transport Corporation
Limited, Pallavan House,
Chennai - 2.

...Respondent

PRAYER:

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus, directing the respondent Corporation to sanction pension from 01.11.1998 and to pay pension arrears upto 31.10.2005 with interest for belated payment within a time frame.

For Petitioner .. Mr.N.Sundaramurthy

For Respondent .. Mr.K.Murthy,
Standing Counsel

ORDER

The petitioner was an employee of the Transport Corporation. According to him, he was entitled to the benefit contemplated in G.O.Ms.No.135 Transport Department dated 15.12.2000. However, the benefit was refused to the petitioner.

2.The petitioner therefore approached this Court in W.P.No.21641 of 2008 and the Writ Petition was disposed of directing the Department to reconsider the request of the petitioner in the light of the service certificate issued on 28.12.2007 by the Official concerned. However, no orders came to be passed despite the direction by this Court. Therefore, the petitioner was constrained to file Contempt Petition in Cont.P.No.149 of 2009. During the pendency of Contempt Petition, the reply was issued rejecting the claim of the petitioner.



3. Thereafter, the contempt petition was closed and the petitioner was once again constrained to file another Writ petition in W.P.No.20500 of 2010 challenging the rejection order. The Writ Petition was disposed on 02.11.2012 with the following direction;

"The first respondent is directed to sanction pension to the petitioner in accordance with the provisions of the Tamil Nadu State Transport Corporation Employees Pension Fund. In case the Corporation is of the view that the petitioner should refund the amount already received by him during the time of his retirement as a condition precedent for sanctioning pension, necessarily he should be given an opportunity to remit the amount. The first respondent is directed to pass pension payment order within a period of three months from the date of receipt of copy of the order."

4. According to the petitioner, the above direction was not complied with, he has also filed Contempt petition in Cont.P.No.1286 of 2013 and thereafter, pension payment order was issued. In the order, it was stated that the petitioner had retired on 31.10.1998 and was entitled to pension from 01.11.1998 and the pension was become payable from 01.11.2005. The petitioner's grievance is that he was entitled to be paid pension from 01.11.1998 to 31.11.2005, for the said claim, the present writ petition for issuance of Writ of Mandamus.

5. When the matter is taken up for hearing, on behalf of the respondent Corporation, it was brought to the knowledge of this Court that the same petitioner had approached this Court earlier in W.P.No.16511 of 1998 seeking similar relief and while disposing of the matter on 21.02.2007, this Court has clearly held that the petitioner was not entitled to reckon the said period for calculation of retirement benefits. The observation of the Court in Paragraph 13 is extracted herein;

"13. Applying the principle of equity as held by the Hon'ble Supreme Court to the facts in this case and the respondents having utilised the service of the petitioner from 01.11.1998 to 31.10.2005 for which the petitioner was paid salary, the respondents are directed not to recover the salary paid to the petitioner from 01.11.1998 to 31.10.2005. However, the petitioner is not entitled to reckon the said period for calculating retirement benefits."



6.Unfortunately, without disclosing this material information, this Writ Petition has been filed. This Court could take serious view of the suppression of the material fact by the petitioner and also can impose exemplary cost for approaching this Court with unclean hands. However considering the old age of the petitioner, this Court is refraining from imposing any cost.

7.In view of the earlier decision of this Court as aforementioned rejecting the claim of the petitioner, the present Writ Petition is gross abuse of process of court and therefore, the same stands dismissed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mrm

To

The Managing Director,
Metropolitan Transport Corporation
Limited, Pallavan House,
Chennai - 2.

+lcc to Mr.K.Moorthy, Advocate, S.R.No.12667

W.P.No.8699 of 2014
&
M.P.No.1 of 2014

SPD(CO)
PM/16/03/2022