

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.13151 of 2014

S.Duraisamy

...Petitioner

-Vs-

1.The Managing Director,
Tamil Nadu State Transport Corporations (Salem) Ltd.,
12, Ramakrishna Salai,
Salem - 636 007.

2.The General Manager,
Tamil Nadu State Transport Corporations (Salem) Ltd.,
12, Ramakrishna Salai,
Salem - 636 007.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records connected with the orders dated 28.11.13 passed by the 2nd respondent in his proceeding No. 540/34262/Law/ TNSTC (Salem)/2013 quash the same and also direct the respondent to regularize the period from 20.05.11 to 17.05.12 as service for being counted to pension and grant all other service benefits including monetary benefits for the above period.

For Petitioner : Mrs.S.Giriya

For Respondents : Mr.R.Babu

O R D E R

The order dated 28.11.2013 regularising the period of leave as without salary is under challenge in the present writ petition.

2. The writ petitioner joined as driver on 13.07.1985 in the respondent Corporation and retired from service on attaining the age of superannuation on 31.05.2013.

3. The learned counsel for the writ petitioner made a submission that due to illness, the Corporation directed the writ petitioner to appear before the medical board in May 2011 and accordingly, the petitioner appeared before Government Mohan Kumaramangalam Medical College & Hospital at Salem and after medical examination on 20.05.2011, the Senior Civil Surgeon of the hospital gave a Vision Certificate stating that the petitioner was not fit for driving. The petitioner submitted a representation on 23.05.2011, requesting the 2nd respondent to provide an alternative employment. The writ petitioner was directed to appear before the Negotiation Committee for providing an alternative employment. The authorities also informed the petitioner that his case will be considered. The petitioner thereafter went on leave and made a request to grant medical leave or in alternate, provide employment. In spite of the request, the petitioner was not immediately provided with an alternative employment and therefore, the petitioner states that he is entitled for salary to the entire period.

4. The petitioner appeared before the medical board in May 2011 and the Senior Civil Surgeon of the hospital had given a certificate that the petitioner is not fit for driving. Thereafter, the petitioner could not able to perform his duties as driver. He applied for medical leave and thereafter, the petitioner was not sanctioned with the medical leave. The petitioner remained absent for about 199 days subsequently, in view of the fact that no alternative employment was provided to him. However, the authorities competent, regularised the entire period of 364 days for the purpose of continuity of service and, in respect of the period during which the writ petitioner was not performing his duties, the said period was treated as leave without salary. The principles of 'No Work No Pay' was adopted by the respondents for the purpose of not granting salary to the period during which the writ petitioner remained absent. However, the said period was regularised as qualifying service for the grant of pensionary benefits. Therefore, the petitioner was denied salary for the period during which he did not serve in the corporation on the ground that he is not entitled for salary, on the principles of 'No Work No Pay'. This Court do not find any infirmity.

5. This being the factum, the respondents are directed to treat the entire period of leave as qualifying services for the purpose of terminal and pensionary benefits. However, in respect of the leave period of 199 days and 69.5 days, the said period is treated as leave without salary. Therefore, the petitioner is entitled for all the pensionary and terminal benefits by calculating the entire period as qualifying services. However, this Court do not find any infirmity in respect of denial of salary to the portion of the period of leave.

6. With these directions, the Writ Petition stands disposed of. No Costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Managing Director,
Tamil Nadu State Transport Corporations (Salem) Ltd.,
12, Ramakrishna Salai,
Salem - 636 007.

2.The General Manager,
Tamil Nadu State Transport Corporations (Salem) Ltd.,
12, Ramakrishna Salai,
Salem - 636 007.

+1cc to Mr.R.Babu, Advocate SR. No. 39710

W.P.No.13151 of 2014

GPL (CO)
PR (15/07/2022)