

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 33115 of 2017

V.Sivakumar

...Petitioner

-vs-

Managing Director,
The Management of Metropolitan Transport Corporation,
Pallavan Salai,
Chennai - 600 002.

...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondent to confirm his service with effect from 13.12.1998 instead of 21.03.2017 with backwages and all other attendant and consequential benefits.

For Petitioner	: Mr. K.V. Dhanapalan
	For M/s. T.Fenn Walter Associates
For Respondent	: Mr. M.Chidambaram

O R D E R

Heard Mr. K.V. Dhanapalan, Learned Counsel for the Petitioner and Mr. M.Chidambaram, Learned Counsel for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. According to the Petitioner, he has been sponsored through employment exchange and had been working as Driver from 23.11.1996 onwards in the services of the Respondent and as per the terms of settlement dated 30.09.1992 under Section 12(3) of the Industrial Disputes Act, 1947, entered by the Respondent with its recognized Trade Unions, he was entitled to be regularized with effect from 13.12.1998 on completing 240 days of continuous service within a period of 12 calendar months. Though he had made a representation dated 04.03.2017 in that regard, his services have been regularized only with effect from 23.03.2017 and despite a notice dated 07.04.2017 issued through his Advocate, no action has been taken to rectify that error committed by the Respondent. In that backdrop, the Petitioner has filed this Writ Petition to direct the Respondent to confirm

the services with effect from 13.12.1998 instead of 27.03.2017 with all other attendant and consequential benefits.

3. Having regard to the limited nature of relief sought, this Court without expressing any view on the correctness or entitlement of the claim made by the Petitioner, passes the following order:-

- (i) it shall be incumbent upon the concerned authority to immediately examine the representation dated 04.03.2017 made by the Petitioner with reference to the settlement dated 30.09.1992 under Section 12(3) of the Industrial Disputes Act, 1947, and ascertain as to whether the Petitioner had actually worked in the Corporation of the Respondent during the relevant period so as to be entitled for the benefits claimed;
- (ii) if it is found that any details or supporting documents satisfying the eligibility criteria for the benefits claimed had not been produced, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 15 clear working days in that regard;
- (iii) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner to explain his position in that regard and a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment;
- (iv) if the Petitioner is found entitled to the claim made, payment of the differential amount of monetary benefits shall be made within a period of one month from the date of passing of that order; and
- (v) the report of completion of the aforesaid exercise shall be filed before the Registrar (Judicial) of this Court.

4. In fine, the Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Managing Director,
The Management of Metropolitan Transport Corporation,
Pallavan Salai,
Chennai - 600 002.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

+1 cc to Mr.M.Chidambaram, Advocate, S.R.No.40239

W.P. No. 33115 of 2017

RP(CO)
KKV/12/07/2022