



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2022

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WEB COPY

W.P (MD) No.6010 of 2020

S.M.Muthupakkir

... Petitioner

Vs.

1.The Management of Tamil Nadu
State Transport Corporation,
(Madurai) Ltd.,
rep. by its Managing Director,
Bye Pass Road, Madurai-10

2.The General Manager,
State Transport Corporation
(Madurai) Ltd.,
Madurai Region, Madurai.

3.The Administrator,
Tamil Nadu State Transport Corporation
Pension Fund Trust,
Thiruavalluvar House,
Pallavan Salai,
Chennai-2

... Respondents

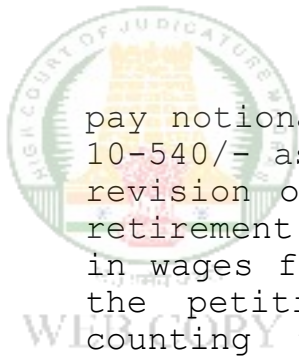
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to fix the petitioner's pay notionally from 01.04.1988 in the scale of pay of Rs.420-7-480-10-540/- as per 18(1) Settlement dated 01.06.1986 with corresponding revision of wages as per subsequent settlements, till the date of retirement i.e., on 28.02.2014 and to pay the petitioner difference in wages from 30.08.2004 to 28.02.2014 and also to pay and sanction the petitioner all the terminal benefits including pension by counting the petitioner's entire service from 01.04.1988 for calculating the pension and from 31.07.1981 for the purpose of calculating gratuity based on the pay payable to the petitioner as on the date of retirement as per the above notional fixation and to pay the petitioner monthly pension and gratuity with arrears together with interest payable from 28.02.2014 till the date on which the above retirement benefits are settled to the petitioner.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.J.Senthil Kumaraiah

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the respondents to fix the petitioner's



pay notionally from 01.04.1988 in the scale of pay of Rs.420-7-480-10-540/- as per 18(1) Settlement dated 01.06.1986 with corresponding revision of wages as per subsequent settlements, till the date of retirement i.e., on 28.02.2014 and to pay the petitioner difference in wages from 30.08.2004 to 28.02.2014 and also to pay and sanction the petitioner all the terminal benefits including pension by counting the petitioner's entire service from 01.04.1988 for calculating the pension and from 31.07.1981 for the purpose of calculating gratuity based on the pay payable to the petitioner as on the date of retirement as per the above notional fixation and to pay the petitioner monthly pension and gratuity with arrears together with interest payable from 28.02.2014 till the date on which the above retirement benefits are settled to the petitioner.

2. Heard Mr.A.Rahul, learned counsel appearing for the petitioner and Mr.J.Senthil Kumaraiah, learned counsel appearing for the respondents.

3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. The petitioner and three others, who were working as Cleaners, were terminated from service by the 1st respondent, which came to be set aside by the Labour Court and confirmed by this Court in W.P.No.5016 of 1992 and the Writ Appeal in W.A.No.2395 of 1999 preferred by the respondent management also came to be dismissed on 04.04.2003. Again, the matter went up to the Supreme Court, wherein, the petitioner was directed to report for duty. Pursuant to the same, the petitioner was reinstated into service with effect from 26.08.2004 and he retired from service on attaining age of superannuation on 28.02.2014. The grievance of the petitioner is that the respondents have not paid his pension and other terminal benefits despite his representations, of which, last dated 18.12.2019. According to the respondents, the petitioner is not entitled for continuity of service and thereby, not entitled to the retiral benefits. In this regard, one of the co-employee, who is similarly placed like that of the petitioner, namely, Mr.Ramesh, has filed a Writ Petition in W.P.(MD) No.12390 of 2016, seeking to direct the respondents to settle his terminal benefits including monthly pension, gratuity, EL salary, pay revision arrears etc. The said Writ Petition came to be allowed by this Court on 05.09.2018, directing the respondents to send pension proposals of the said individual. As against the said order, an appeal in W.A.(MD) No.456 of 2019 was preferred and the same was also dismissed by a Division Bench of this Court on 17.07.2019. Based upon the same, the petitioner also claimed the similar relief.

5.Mr.Senthil Kumaraiah, learned counsel appearing for the respondent Corporation fairly submits that already the issue involved in the Writ Petition has been settled by this Court in W.A (MD) No.456 of 2019 and therefore, the petitioner being similarly placed as the co-employee is not entitled to the benefit.



6. Recording the submission made by the learned counsel for the respondents, the present Writ Petition is allowed and the respondents are directed to take a decision on the claim of the petitioner and pass appropriate orders on the similar lines of the judgment dated 17.7.2019 passed by this Court in W.A.(MD) No.456 of 2019, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (AS)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Managing Director,
Management of Tamil Nadu
State Transport Corporation,
(Madurai) Ltd.,
Bye Pass Road, Madurai-10

2.The General Manager,
State Transport Corporation
(Madurai) Ltd.,
Madurai Region, Madurai.

3.The Administrator,
Tamil Nadu State Transport Corporation
Pension Fund Trust,
Thiruavalluvar House,
Pallavan Salai,
Chennai-2

+1 CC to M/s.A.RAHUL, Advocate (SR-862[F] dated 07/01/2022)

W.P (MD) No. 6010 of 2020
06.01.2022

MK/22.02.2022/3P/4C