



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.3037 of 2014

and

M.P. (MD)No.1 of 2014

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P.Perumal (Died)

1. Nachammal
2. Thiruvasagam
3. Dhanalakshmi
4. P.Vadivel

... Petitioners

(Petitioners 1 to 4 substituted for the deceased sole petitioner, vide Court order, dated 17.07.2019 in W.M.P. (MD)No.13837 of 2018 in W.P. (MD)No.3037 of 2014)

vs

1. The Management of Tamil Nadu Transport Corporation
(Kumbakonam) Ltd.,
Represented by its Managing Director,
Kumbakonam.
2. The General Manager,
Tamil Nadu Transport Corporation,
(Kumbakonam) Ltd.,
Tiruchirappalli Region,
Tiruchirappalli.
3. The Administrator,
Tamil Nadu State Transport Corporation,
Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai - 2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the punishment of increment cut for three months with cumulative effect imposed by the second respondent in Ref:Tha.Aa.Po.Ka./Kumba/Trichy/D2/4732/2012 dated 23.08.2012, quash the same and consequently, direct the respondents to pay the petitioner's pension benefits including gratuity, provident fund, commuted value of pension, leave salary, monthly pension and all other attendant benefits by taking into account his period of service rendered in the post of Driver in the first respondent Corporation from 31.10.2001 to 31.08.2012.



For Petitioners : Mr.A.Rahul
For Respondents : Mr.D.Sivaraman for R1 & R2
Mrs.Anbarasi for
Mr.A.Swaminthan for R3

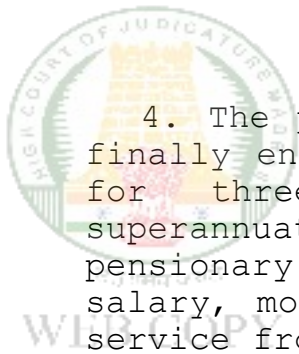
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O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the punishment of increment cut for three months with cumulative effect imposed by the second respondent, dated 23.08.2012 and consequently, direct the respondents to pay the petitioner's pension benefits including gratuity, provident fund, commuted value of pension, leave salary, monthly pension and all other attendant benefits by taking into account his period of service rendered in the post of Driver in the first respondent Corporation from 31.10.2001 to 31.08.2012.

2. The petitioner joined in service in the first respondent Corporation as Driver on daily wages with effect from 11.09.1985 and his service was confirmed from 01.09.1986. A Charge Memo, dated 22.07.1996 was issued alleging that on 11.05.1996, the petitioner had come in drunken mood and shouted at the Security Guard and abused him in filthy language. The petitioner submitted his explanation to the Corporation and not being satisfied with the explanation, the second respondent conducted domestic enquiry. The Enquiry Officer submitted the report, dated 03.10.1996, held that charges were proved. Thereafter, a show cause notice, dated 15.11.1996, was issued calling upon the petitioner to submit his explanation of imposing major punishment of dismissal from service on 03.12.1996. The petitioner has raised ID.No.3/2000 and the Labour Court held, vide order, dated 31.10.2001, that the punishment of dismissal from service was disproportionate and ordered for reinstatement without backwages and continuity of service.

3. Aggrieved over, the first respondent has filed a writ petition in W.P.(MD)No.9125 of 2003 and the petitioner has also filed W.P.(MD)No.34599 of 2005, seeking for direction to pay last drawn wages under Section 17 (B) of the Industrial Dispute Act. By an interim order, dated 12.07.2006, this Court, directed the second respondent to comply with the provisions of Section 17 (B) by taking last drawn wages as Rs.3,900/- (Rupees Three Thousand and Nine Hundred only) and continue to pay the same till the final disposal of the writ petition. Accordingly, the first respondent paid the wages for every month and the writ petition was taken up for final hearing and the writ petition filed by the Corporation was dismissed and the Labour Court award was confirmed. Thereafter, the first respondent Corporation reinstated the petitioner with retrospective effect from 31.10.2001 and thereafter, regularized the service on 01.07.2002.



4. The petitioner was issued with another Charge Memo which was finally ended up in imposing a punishment of stoppage of increment for three months. Thereafter, the petitioner attained superannuation on 31.08.2012. The petitioner claimed to pay the pensionary benefits including gratuity, provident fund, leave salary, monthly pension and other attended benefits by taking into service from 31.10.2001 to 31.08.2012. The respondents have rejected the claim, vide impugned order, dated 23.08.2012. Aggrieved over the same, the present writ petition is filed.

5. The second respondent has filed a counter affidavit stating that the petitioner is having only nine years eight months as a qualifying service and therefore, the petitioner is not entitled to. The third respondent has not filed any counter affidavit.

6. Heard Mr.A.Rahul, learned Counsel appearing for the petitioners and Mr.D.Sivaraman, learned Counsel appearing for the respondents 1 and 2 and Mrs.Anbarasi, learned counsel appearing for the third respondent.

7. The petitioner was reinstated as a fresh entrant on 31.10.2001 and thereafter, regularized in service on 01.07.2002. The petitioner attained superannuation on 31.08.2012. Since the petitioner was having nine years eight months as qualifying service, the respondents ought to have granted the pension. But the third respondent submitted that there is no file maintained for the petitioner. Hence this Court deems it fit, to direct the second respondent to forward the proposals to the third respondent and the respondents shall round off the qualifying service and thereafter issue pension. While disbursing the pension, the respondents shall also take into consideration the Section 17(B) wages paid to the petitioner. Therefore, this Court is setting aside the impugned order and directing the respondents to consider and issue the pension after rounding off the nine years eight months to ten years as qualifying service and pay all other eligible benefits including recovery also within a period of twelve weeks from the date of receipt of a copy of this order,

8. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

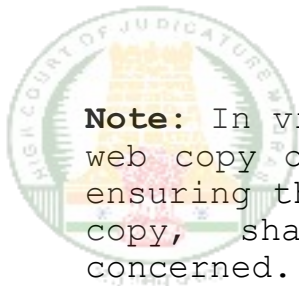
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Sub Assistant Registrar(CS)

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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.

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To

1. The Management of Tamil Nadu Transport Corporation
(Kumbakonam) Ltd.,
Represented by its Managing Director,
Kumbakonam.
2. The General Manager,
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(Kumbakonam) Ltd.,
Tiruchirappalli Region,
Tiruchirappalli.
3. The Administrator,
Tamil Nadu State Transport Corporation,
Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai - 2.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-1191[F] dated 11/01/2022)

+1 CC to M/s.A.RAHUL, Advocate (SR-1095[F] dated 10/01/2022)

Order made in

W.P. (MD)No.3037 of 2014

10.01.2022

NSN (CO)

GC (24.02.2022) 4P 6C