



W.P(MD)No.1607 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).No.1607 of 2017

M.Balasubramanian,

: Petitioner

Vs

1. The Managing Director,
Tamil Nadu State Transport
Corporation(Madurai) Ltd.,
Byepass Road,
Madurai-625016.

2. The General Manager,,
Tamil Nadu State Transport
Corporation(Madurai) Ltd.,
Dindigul Region,
Dindigul-4.

: Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records connected with Impugned Order passed by the 1st respondent in his Letter Parvai:-Koo.sa/Dindu/WP/18405/2016 dated 19.11.2016 and quash the same and consequently to direct the respondents to modify the punishment of



W.P(MD)No.1607 of 2017

increment Cut with cumulative effect for one year into one of without cumulative effect for one year in terms of the order in Appeal passed by the 1st respondent dated 29.10.2009 and consequently direct the respondents to give effect the date of 3rd Review and Promotion from 01.05.2012 instead of 01.05.2013 notionally with monetary service and pensionary benefits from the date of 3rd review on 01.05.2012.

For Petitioner : Mr.S.Govindan

For Respondents : Mr.A.Jayaram

ORDER

This Writ Petition had been filed for Certiorarified Mandamus to quash the Impugned Order passed by the 1st respondent in his Letter Parvai:- Koo.sa/Dindu/WP/18405/2016 dated 19.11.2016 and consequently to direct the respondents to modify the punishment of increment cut with cumulative effect for one year into one of without cumulative effect for one year in terms of the order in Appeal passed by the 1st respondent dated 29.10.2009 and consequently direct the respondents to give effect the date of 3rd Review and Promotion from 01.05.2012 instead of 01.05.2013 notionally with monetary



W.P(MD)No.1607 of 2017

service and pensionary benefits from the date of 3rd review on 01.05.2012.

WEB COPY

2. The contention of the petitioner is that the petitioner was appointed as Driver on 01.04.1987, in the respondent corporation and he has continued to work for 25 years. The petitioner was charged for the alleged accident took place on 05.11.2006. In the said accident, the respondents alleged that the petitioner has caused minor injury to a boy. Considering the explanation given by the petitioner, the respondent Corporation had imposed punishment of stoppage of increment with cumulative effect for one year. Then, the petitioner submitted an appeal to the respondent, seeking to modify the punishment and the order, dated 29.10.2009 had been passed, whereby, the punishment was modified as cut to the increment for one year without cumulative effect. After modification of the punishment, the petitioner is entitled to count the said one year of service for all consequential benefits including pensionary benefits. Due to said punishment, the petitioner's promotion and third review was postponed on 01.05.2013 and an entry was made in the Service Register that the petitioner is entitled to review promotion only on 01.05.2013. The main contention of the petitioner is that the petitioner was imposed a punishment of increment cut without cumulative



W.P(MD)No.1607 of 2017

effect as per the modified order. But now the respondent by postponing of third review and promotion by one year, is punishing the petitioner. Moreover the said act would attract the principle of double-jeopardy for the same alleged accident on 05.11.2006. Because of the postponement of third review by four quarters i.e., one year and was made entry on 01.05.2012 in the Service Records stating that the petitioner will be eligible to get the next review and promotion only on 01.05.2013. In the meanwhile, the petitioner opted for Voluntary Retirement due to family circumstances and health condition and he was allowed to retire on 30.06.2012 i.e., even before getting the next review. The petitioner's son also died in an accident on 12.11.2012. The issue of promotion was not decided during that period. Then, the petitioner filed a writ petition in W.P.No.18405 of 2016 before this Court and this Court vide order dated 27.09.2016, directed the first respondent therein, to consider the petitioner's representation, dated 15.12.2015 and the respondents in order to obey the order dated 29.10.2009, the claim was considered by the respondents and rejected the claim. Hence the present writ petition has been filed.

3. The respondents have filed a counter stating that based on the



W.P(MD)No.1607 of 2017

direction of this Court in W.P.No.18405 of 2016, the petitioner's representation was considered. The petitioner received the second review benefit on 01.02.2004 and the third review benefit was due after eight years i.e., on 01.05.2012. At that time, the petitioner committed 33 ½ days leave on Loss of Pay and 184 days absent, increment cut with cumulative effect excluding the excluding the mentioned punishment of one year increment cut without cumulative effect. Due to this, the petitioner's third review was postponed for further one year i.e., on 01.05.2013. In the meantime, the petitioner got VRS on 30.06.2013. Hence, the petitioner is not entitled to get third review benefit and the respondents prayed to dismiss this petition.

4.Heard Mr.S.Govindan the Learned Counsel appearing for the petitioner and Mr.A.Jayaram, the Learned Counsel appearing for the respondents and perused the records available.

5. The contention of the petitioner is that he has served for 25 years in the respondent corporation. As per 12(3) Settlement, dated 22.01.2011, an employee is entitled to review the benefits as 6+7+8+8+3 years. Even according to the respondents, the petitioner has served for 25 years since the



W.P(MD)No.1607 of 2017

gratuity is paid by calculating 25 years. The petitioner's Service Record also states that the petitioner has served for 25 years. The petitioner was granted service benefits for 20 years as per the entry made on 01.05.2008 in the petitioner's Service Record. If these two facts are taken into account, the petitioner would be eligible for third review benefits. Therefore, the learned Counsel appearing for the petitioner submitted that even if the punishment is taken into account, the petitioner is entitled for third review. The respondents have wrongly fixed the date of eligibility of third review as 01.05.2013 and the petitioner is entitled to third review on 01.05.2012. Therefore, the claim of the petitioner is that even according to his Service Record, the petitioner has put in 25 years of service, hence, he is entitled to get third review benefit.

6. Therefore, this Court is of the considered opinion that the petitioner is entitled to get third review benefits. Accordingly, the order passed by the first respondent in Letter Parvai:-Koo.sa/Dindu/WP/ 18405 /2016, dated 19.11.2016 is hereby set aside. The respondents are directed to confer the third review benefits to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.



W.P(MD)No.1607 of 2017

7. With the above direction, this writ petition stands allowed. No costs.

WEB COPY

11.10.2022

Index : Yes / No

Internet : Yes/ No

lr

To

1. The Managing Director,
Tamil Nadu State Transport
Corporation(Madurai) Ltd.,
Byepass Road,
Madurai-625016.

2. The General Manager,,
Tamil Nadu State Transport
Corporation(Madurai) Ltd.,
Dindigul Region,
Dindigul-4.



WEB COPY



W.P(MD)No.1607 of 2017

S.SRIMATHY, J.

lr

W.P(MD).No.1607 of 2017

11.10.2022