



WEB COPY



W.P.No.14998 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.14998 of 2013

S.Mohanraj

... Petitioner

Vs.

- 1.Tamilnadu State Transport Corporation (Villupuram) Ltd,
Vellore Region,
Rep by its Managing Director,
Rangapuram, Vellore-9
- 2.The General Manager,
Tamilnadu State Transport Corporation (Villupuram) Ltd,
Vellore Region,
Rangapuram, Vellore 9

... Respondents

PRAYER :

Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 07.04.2012 passed by the second respondent in Letter No.14259/Sa.1/TNSTC (Villupuram) Vellore Ma/2011 and the order dated 24.04.2012 passed by the first respondent letter No.14259/Sa.1/TNSTC(Villupuram)Vellore.Ma/2011, quash the same and consequently direct the respondents to pay the petitioner



W.P.No.14998 of 2013

monthly pension and other terminal benefits such as PF, Gratuity, leave encashment etc., by counting his service from the date of the petitioner retirement by counting his service from the date of appointment to the date of the petitioner dismissal and also by counting the petitioner's service from the date of reinstatement to the date of the petitioner's superannuation without any adjustment towards the alleged excess payment of salary and leave encashment, together with interest at the rate of 18% per annum.

For Petitioner : Mr.V.Ajoy Khose
for Mr.P.Seshadri

For Respondents : Mr.M.Ashwin,
Standing Counsel

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 07.04.2012 and the order passed by the first respondent dated 24.04.2012 thereby denied the petitioner's pension and other terminal benefits without calculating his earlier service period.

2. Heard, the learned counsel appearing on either side.
3. The petitioner had joined as Driver in the respondents



W.P.No.14998 of 2013

Corporation on 22.05.1979. On 09.03.1995, his bus met with an accident, due to which one person died and four persons were injured. Therefore, the petitioner was served with charge memo and subsequently, he was dismissed from service on 14.07.1995. Therefore, the petitioner raised Industrial Dispute in ID.No.160 of 1996. The Labour Court set aside the order of dismissal and ordered to reinstate the petitioner without backwages and issued direction not to count the period from 14.07.1995 till the date of reinstatement of the petitioner for terminal benefits. Accordingly, the petitioner was reinstated into service on 22.10.2002. Thereafter, the petitioner attained age of superannuation and retired from service on 30.11.2009. However, the petitioner was not paid pension and other terminal benefits. Therefore, the petitioner made representation, which was rejected by the impugned orders stating that the petitioner had put in less than 10 years of service and as such, he was not entitled for pension. Further, they also withheld a sum of Rs.2,14,554/- as if it was paid in excess over and above his actual entitlement.

4. On perusal of the award passed in ID.No.160 of 1996, it is



W.P.No.14998 of 2013

clear that the order of dismissal was set aside. Thereafter, the respondents were directed to reinstate the petitioner. However, the petitioner is not entitled for any benefits for the period from the date of his dismissal i.e. 14.07.1995 till the date of his reinstatement for any purpose. However, the respondents failed to take into consideration of the earlier period of his service i.e. from 22.05.1979 to 13.07.1995 for his terminal benefits. The respondents treated the petitioner's service afresh from the date of his reinstatement i.e. on 22.10.2002 and rejected his terminal benefits on the ground that he had not completed 10 years of service for pension.

5. In view of the above, the impugned orders cannot be sustained and they are liable to be quashed. Accordingly, the order passed by the second respondent dated 07.04.2012 and the order passed by the first respondent dated 24.04.2012 are quashed and this writ petition is allowed. The respondents are directed to pay the pensionary benefits and other terminal benefits such as PF, gratuity, leave encashment, etc by counting his service from the date of his original appointment i.e. 22.05.1979 till 13.07.1995 for all purpose, within a



W.P.No.14998 of 2013

period of twelve weeks from the date of receipt of copy of this order. It is also made clear that the petitioner's appointment cannot be treated as a fresh appointment and as such, there is no question of any excess payment to the petitioner. There shall be no order as to costs.

15.09.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
lok



WEB COPY



W.P.No.14998 of 2013

G.K.ILANTHIRAIYAN, J.

lok

To

- 1.Managing Director,
Tamilnadu State Transport
Corporation (Villupuram) Ltd,
Vellore Region,
Rangapuram, Vellore-9
- 2.The General Manager,
Tamilnadu State Transport
Corporation (Villupuram) Ltd,
Vellore Region,
Rangapuram, Vellore 9
- 3.The Government Advocate,
High Court, Madras.

W.P.No.14998 of 2013

15.09.2023