



W.P.No.20206 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.04.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.20206 of 2016

Y.Parathesiapillai

... Petitioner

Vs.

1. The Secretary to Government,
Transport Department,
Government of Tamilnadu,
Fort St. George,
Chennai – 9

2. The Managing Director,
State Express Transport Corporation,
Pallavaram Salai,
Chennai – 600 002

3. The Chief Accounts Officer,
State Express Transport Corporation,
Pallavan Salai,
Chennai – 600 002

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to release all the withheld and denied service / retiral benefits due to the petitioner, as claimed in his representation dated 29.01.2016.



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For Petitioner : Mr.S.Kadarkarai
For Respondents : Mr.T.Chezhan for R1
Additional Government Pleader
Mr.K.Kathiresan for R2
Standing Counsel
R3 – No appearance

ORDER

Heard Mr.S.Kadarkarai, learned counsel for the petitioner and Mr.T.Chezhan, learned Additional Government Pleader for 1st respondent and Mr.K.Kathiresan, learned standing counsel for 2nd respondent and perused the documents placed on record.

2. Seeking for an issuance of a Writ of Mandamus directing the respondents to release all the withheld and denied service / retiral benefits due to the petitioner, as claimed in his representation dated 29.01.2016, the petitioner is before this Court.

3. The brief facts of the case are as follows:-

(i) The petitioner joined the services of the 2nd respondent as record clerk cum conductor on 23.08.1985 and thereafter, the petitioner was



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promoted as junior assistant during September, 1986. Thereafter, the petitioner became President of the TMC workers Union in the 2nd respondent Corporation, hence representing the members of the workers union, the petitioner participated in the strike on 11.05.2000 and consequently, the petitioner was marked absent, considering the legitimacy in the demand, the management ultimately, conceded the said demand and decided not to initiate any precipitative action against the employees, as per G.O.(D)No.159 Transport (C1) Dept., dated 12.10.2004, due to the said fact, the petitioner's second career review, which fell due on 01.11.2000 was not considered and postponed by 3 months as a hidden punishment.

(ii) Besides the above, even though no criminal cases were initiated or pending against the petitioner and the 1st respondent addressed a communication vide letter no.10931/C2/Gov/2013 dated 20.07.2013 to set right the punitive action, the respondents 2 and 3 voluntarily neglected to consider the petitioner's representations. Also the statutory payment of gratuity, PF accumulations, commutation of leave etc., unduly were also not disbursed within a period of 30 days of cessation of service, in fact, the same disbursed in a piece meal after a lapse of 9-12 years. Also, for the



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purpose of computing the retirement pension, the petitioner's service should have been taken as 30 years and accordingly, the petitioner was eligible for payment of 100% pensionary benefits, but the respondents 2 and 3 reduced the benefits, 10% and fixed at 90% only for the pension, hence this petition.

4. The learned counsel for the petitioner would submit that since the statutory requirement was flouted by the respondents 2 and 3, the petitioner was deprived of 10% pensionary benefits, throughout the petitioner's life and in the similar cases, this Court in W.A.(MD) No.383 to 457 of 2015 dated 12.06.2014 directed the management to disburse the retrial benefits with 18% following the ratio laid down by the Hon'ble Supreme Court reported in 2014(9) Scale 78. Since the representations have not yielded any result, the petitioner has filed the present writ petition.

5. On the other hand, learned standing counsel as well as the learned Additional Government Pleader appearing on behalf of the respondents submits that representation made by the petitioner on 29.01.2016 will be considered strictly in accordance with law. Further, the petitioner has claimed interest at the rate of 18% by following the judgment of the Hon'ble



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Apex Court, however, the facts and circumstances of the said case differ from the present case, if the petitioner is found eligible appropriate orders will be passed fixing the interest prevailing as on date within a time to be fixed by this Court.

6. Taking into consideration of the facts and circumstances of the case and without going into the merits of the matter, there shall be a direction to the respondents to consider the representation made by the petitioner dated 29.01.2016 and to pay interest at the rate of 6% for the belated payment and pass appropriate orders in accordance with law within a period of six weeks from the date of receipt of a copy of this order, if there is no legal impediment..

In view of the above, the present Writ Petition is disposed of. No costs.

28.04.2023

Index : Yes/No
Internet : Yes/No
Speaking /Non-Speaking Order
ssd



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V.BHAVANI SUBBAROYAN, J.,

ssd

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