



W.P.No.4143 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

CORAM:

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

W.P.No.4143 of 2013

Thiruvengadam

...Petitioner

-Vs-

1. Metropolitan Transport
Corporation Ltd.,
Rep. by its Managing Director,
Pallavan Salai,
Chennai – 600 002.

2. The Tamilnadu State Transport
Corporation Employees' Pension
Fund Trust,
Rep. by its Administrator,
Pallavan Salai,
Chennai – 600 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that the action of the respondents in reducing the petitioner's pension without issuing any notice or order as illegal and consequently direct the respondents to restore his pension and to pay him full pension by taken his total qualifying pensionable service as 30 year and above, together with interest at the rate of 12% per annum, award costs.



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For Petitioner : Mr.V.Ajoy Khose

For Respondents : Mr.R.Balaji,
Standing Counsel.

ORDER

The writ petition has been filed to declare the action of the respondents to reduce the pension without calculating the period of non employment for the purpose of calculating pension.

2. The petitioner had joined in the service of the first respondent as Conductor, on 05.02.1975, and after completion of 240 days of service, he was made permanent and brought into time scale of pay. Thereafter, he was dismissed from service on 04.11.1994 based on the charge memo dated 07.05.1992. On perusal of the charge memo, it was alleged that the petitioner did not close the invoice for the fourth stage even after the bus crossed the fourth stage and he was resold five tickets and that there was excess of Rs.0.85. However, the first respondent failed to seek any approval for the dismissal as contemplated under Section 33(2)(b) of the Industrial Dispute Act (hereinafter referred to as “the I.D. Act”). Therefore, the petitioner lodged complaint under Section 33(A) of the I.D. Act.



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3. Thereafter, the first respondent submitted approval application in Application No.72 of 1996, after the period of one year from the date of dismissal from service. However, it was rejected by an order dated 09.08.1999. In pursuant to the said order, the petitioner was reinstated into service by an order dated 06.12.1999, with continuity of service and 50 % backwages and other attendant benefits. Thereafter, the petitioner was retired from service on 31.05.2011, on attainment of his age of superannuation. He was also sanctioned gratuity for 35 years and also sanctioned monthly pension with effect from the date of his retirement.

4. Further, the petitioner's monthly pension along with dearness allowance and medical allowance were directly paid to his bank account. However, his monthly pension reduced subsequently on the ground that the total period of qualifying service was not calculated for his monthly pension. His total period of qualifying service was 30 years. However, the first respondent had taken only 26 years as qualifying service for calculating the pension. The period of non-employment, due



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to the order of dismissal was not calculated, while calculating the pension. Hence, the petitioner filed the present writ petition with the above said prayer.

5. Heard the learned counsel appearing on either side and perused the material placed before this Court.

6. On perusal of the order of reinstatement dated 06.12.1999, it was clear that the petitioner was reinstated with 50% of back wages along with continuity of service for all purpose. Hence, the petitioner is entitled the period of non-employment period as service period. Therefore, the first respondent is directed to pay full pension by calculating the petitioner's total qualifying service as 30 years and disburse the arrears with interest at the rate of 6% per annum, within a period of twelve weeks from the date of receipt of a copy of this Order. It is also made clear that the first respondent shall continue to pay the full pension to the petitioner.



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7. With the above directions, this Writ Petition is disposed of.

There shall be no order as to cost.

25.09.2023
(1/3)

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts

To

1. The Managing Director,
Metropolitan Transport
Corporation Ltd.,
Pallavan Salai,
Chennai – 600 002.
2. The Administrator,
Tamilnadu State Transport
Corporation Employees' Pension
Fund Trust,
Pallavan Salai,
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G.K.ILANTHIRAIYAN. J.

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