



W.P.No.6865 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2023

CORAM:

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

W.P.No.6865 of 2013

G.Nagarathinam

... Petitioner

Vs.

Tamilnadu State Transport Corporation,
(Villupuram) Ltd.,
Rep. by its Managing Director,
Villupuram

... Respondent

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Mandamus directing the respondent to settle the terminal benefits including difference in salary, gratuity, provident fund and pension and other legal dues due to the petitioner as per award passed by the Labour Court, Cuddalore in ID.No.75 of 2002 dated 20.03.2007 as confirmed in WP.No.28942 of 2007 dated 27.01.2012 within a time frame.

For Petitioner : Mr.K.M.Ramesh

For Respondent : Ms.P.Pavithra
for Mr.M.Ashwin , Standing Counsel

ORDER



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This writ petition is filed to issue a Writ of Mandamus directing the respondent to settle the terminal benefits including difference in salary, gratuity, provident fund and pension and other legal dues due to the petitioner as per award passed by the Labour Court, Cuddalore in ID.No.75 of 2002 dated 20.03.2007 as confirmed in WP.No.28942 of 2007 dated 27.01.2012 within a time frame.

2. The petitioner joined the respondent Transport Corporation in the year 1982 as Driver. When he was working in Chidambaram Depot of the respondent, he was placed under suspension pending enquiry by order dated 29.09.2000. Thereafter, he was served with charge memo dated 03.10.2000 alleging that while he was on duty on 24.09.2000, he was under the influence of alcohol and due to his intoxicated mood, alternative arrangement was made by engaging another Driver to run the bus. After enquiry, as per enquiry report, the petitioner was served with show cause notice dated 18.01.2001 proposing the punishment of dismissal from service. On the said show cause notice, the petitioner submitted his explanation. Ultimately, the respondent by order dated



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05.02.2001, dismissed him from service. Therefore, the petitioner was constrained to raise Industrial Dispute challenging the order of the dismissal from service in ID.No.75 of 2002 on the file of Labour Court, Cuddalore. By award dated 20.03.2007, the Labour Court concluded that the charge was not proved against the petitioner and directed the respondent to reinstate him into service with continuity of service and denied backwages and other attendant benefits.

3. In fact, the respondent challenged the award in WP.No.28942 of 2007 before this Court. Simultaneously, the petitioner challenged the award in WP.No.37541 of 2007 insofar as the denial of backwages and other attendant benefits. Both the writ petitions were dismissed by this Court by a common order dated 27.01.2012 and confirmed the award passed by the Labour Court. In the meanwhile, the petitioner attained superannuation as on 30.04.2008. However, the respondent failed to settle his terminal benefits and other attendant benefits. Further, his pension was not calculated as per his last drawn pay. Though the Labour Court awarded to reinstate him into service,



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since he attained superannuation, he is not entitled for any reinstatement to his service. He is entitled for other terminal benefits as per his last drawn pay Therefore, he submitted a detailed representation on 01.07.2012 to the respondent in order to implement the award passed by the Labour Court.

4. The respondent filed counter and stated as follows:

Net qualifying service	117 9m 17d	
Gratuity Calculation 15/26 x No of years x basic + Grade Pay + DA	Rs.83,976/-	Settled on 16.11.2016 in cheque bearing No.028916
P.F.Contribution	Rs.66,870/-	Settled on 16.11.2016 in Cheque bearing No.694473
Pension qualifying service	12 years	
Pension entitled as on date of retirement	1833.00	30.11.2008
Pension payable as on date	3584.00	Effected w.e.f.11/2016
Arrears payable	2,67,887.00	
Social Welfare fund		

Accordingly, he was settled with all terminal benefits. Insofar as the



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fixation of pension, the Administrator, Tamilnadu State Transport Corporation, EPF Trust, on audit, has to consider his pension with revised scale of pay. Further stated that the petitioner will be settled with pension arrears and he will be paid with pension for the next month at the rate of 3,584/-. Arrears of pension will be settled shortly.

5. Therefore, the respondent would submit that the concerned authority is Administrator, Tamilnadu State Transport Corporation, EPF Trust to consider the request made by the petitioner.

6. Therefore, the respondent is directed to settle terminal benefits including difference in salary, gratuity, provident fund and other legal dues as per the award passed by the Labour Court, Cuddalore in ID.No.75 of 2002 dated 20.03.2007 forthwith. Insofar as the difference in pension, the petitioner is directed to submit representation before the Administrator, Tamilnadu State Transport Corporation, EPF Trust within a period of two weeks from the date of receipt of copy of this Order. On receipt of the same, Administrator, Tamilnadu State Transport



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Corporation, EPF Trust is directed to consider the same and disburse the difference in pension and other legal dues, if any, as per the award within a period of four weeks thereafter.

7. With the above directions, this writ petition is disposed of.

There shall be no order as to costs.

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Internet: Yes

Index: Yes/No

Speaking/Non-speaking order

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To

1.Managing Director,
Tamilnadu State Transport Corporation,
(Villupuram) Ltd.,
Villupuram

2. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.



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