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W.P.No.32469 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No. 32469 of 2016

S.Kannan

... Petitioner

Versus

1.The Managing Director,
State Express Transport Corporation
(Tamil Nadu) Ltd.,
Pallavan Salai,
Chennai – 600 002.

2.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund,
Pallavan Salai, Chennai – 600 002.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, prays to issue a Writ of Mandamus, to direct the respondents to pay backwages from the date of dismissal i.e from 03.06.2011 to 08.06.2013, pension and other terminal benefits to the petitioner.

For Petitioner	: Mr.S.T.Varadarajulu
For Respondent 1	: Mr.K.Kathiresan Standing Counsel
For Respondent 2	: Mr.C.S.K.Sathish Standing Counsel for TNSTC



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ORDER

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This writ petition has been filed seeking issuance of a Writ of Mandamus to direct the respondents to pay backwages from the date of dismissal i.e from 03.06.2011 to 08.06.2013, pension and other terminal benefits to the petitioner.

2. The case of the petitioner is that he joined services of the respondent on 02.03.1987 as a Driver. While he was on duty as Driver in the Bus No.B164, route No.303 the bus met with an accident and pursuant thereto, the petitioner was charge sheeted and domestic enquiry was conducted. The charges were held proved and the petitioner was dismissed from service on 03.06.2011. The approval petition in A.P.No.162 of 2007 filed by the respondent under Section 33(2)(b) of the Industrial Dispute Act, 1947 was rejected and consequently, the dismissal of the petitioner was held inoperative and ineffective. In such view of the matter, the petitioner being entitled to reinstatement and backwages, with continuity of service, made representations on 05.12.2015 and on 06.06.2016 seeking settlement of his terminal benefits and other dues. The prayer sought for in the writ petition is limited to the payment of backwages from the date of dismissal 03.06.2011 to 08.06.2013, with pension and terminal benefits .



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3. It is seen from the records that W.P.No.9321 of 2022 filed by the Transport Corporation, as against the order passed by the 1st respondent in approval petition No.162 of 2007 dated 30.03.2015, was considered on merit and ultimately dismissed on 19.04.2022. Aggrieved by the dismissal order, the Transport Corporation has filed an appeal before this Court in W.A.No.641 of 2023 and the same was also dismissed. Consequently, there is absolutely no impediment for the petitioner being entitled to backwages as he has prayed for in the writ petition.

4. Mr.C.S.K.Sathish, learned Standing Counsel for the 2nd respondent would submit that 12% contribution of the employer has not been made and only if the 1st respondent deposits the amount, the 2nd respondent would be in a position to make payment to the writ petitioner.

5. Considering the above, this Court directs the 1st respondent to deposit the employers' contribution payable in the petitioner's case as per the Pension Rules within a period of four weeks from the date of receipt of a copy of this order and thereafter, within four weeks, the 2nd respondent shall release the payment to the writ petitioner.



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6. With the above directions, this writ petition is disposed of. No cost.

12.06.2023

Index : Yes / No
Internet: Yes
Speaking/non speaking order
nr

To

- 1.The Managing Director,
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Employees Pension Fund,
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P.B.BALAJI, J.,

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