



WEB COPY



W.P.No.14261 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.14261 of 2021

P.Parthiban, (Driver 2443) M/71,
S/o.Perumal,
No.105/3, West Street 1,
Kumarasamypatti,
Salem – 636 007

... Petitioner

/Vs/

The Managing Director,
State Express Transport Corporation,
(Tamil Nadu Division No.1) Limited,
Chennai 600 002

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondent to pay the Petitioner his backwages from 01.04.1993 to 31.03.2008 which comes to around 13,50,000/-, the Provident Fund, Commuted value of Pension and Gratuity and the arrears of monthly pension from 01.04.2008 till date with interest at the rate of 12% per annum till the date of payment and award costs.

For Petitioner : No appearance

For Respondent : Mr.L.S.N.Hasan Fizal
Standing Counsel



W.P.No.14261 of 2021

ORDER

WEB COPY

This Writ Petition has been filed for issuance of Writ of Mandamus directing the respondent to pay the Petitioner his backwages from 01.04.1993 to 31.03.2008 which comes to around Rs.13,50,000/-, the Provident Fund, Commuted value of Pension and Gratuity and the arrears of monthly pension from 01.04.2008 till date with interest at the rate of 12% per annum till the date of payment and award costs.

2.Heard the learned counsel for the Petitioner and the learned standing counsel appearing on behalf of the Respondents.

3.Learned counsel for the Petitioner submitted that the Petitioner was originally terminated from service and subsequently he filed I.D.No.34 of 1994 in Labour Court, Salem and an award has been passed on 30.10.1995 for reinstatement of service with backwages. However the Respondent Management has filed Writ Petition challenging the said award in W.P.3235 of 1998 and the same was disposed by this Court on 20.01.2010. In the said Petition following order was passed:

“It must be stated that during the pendency of the Writ Petition, R.Parthiban had already aged about 60 years and would have



W.P.No.14261 of 2021

WEB COPY

attained superannuation in the normal course. As per the interim order of this Court, P.Parthiban was paid monthly wages from 01.02.2000. In so far as the backwages is concerned, the Petitioner Corporation is bound to pay the wages from the date of his removal i.e., 21.04.1993 till 31.03.2000. Instead of driving him to further litigation, the Petitioner Corporation is directed to calculate back wages at the rate of Rs.2,847/- per month from 21.04.1993 till 31.03.2000. The same shall be made within a period of eight weeks from the date of receipt of a copy of this order. The Petitioner Corporation is also bound to pay his terminal benefits in accordance with law as if he had retired on attaining the age of superannuation.

In so far as the amount deposited in the Labour Court is concerned, P.Parthiban is permitted to withdraw the said amount lying to the credit of Industrial Dispute No.34 of 1994 together with interest accrued thereon. However, for the backwages payable by the Petitioner Corporation, the said amount can be given credit.

With the above directions, the Writ Petition is dismissed. No costs.”

4.The Petitioner has challenged the said order by preferring W.A.No.1435 of 2011 by claiming that he should be paid with the backwages at the revised pay and that Writ Appeal was dismissed on 10.11.2011. The operative portion of the order is extracted as under:



W.P.No.14261 of 2021

“On going through the entire materials placed on record, we are of the considered opinion that this is a matter to be reviewed before the learned single Judge. If the Appellant is aggrieved by the directions issued by the learned single Judge with regard to the payment of the revision of pay attached to the post from time to time and also the increments from the date of dismissal from service, dated 21.04.1993 till 31.03.2000 or till the date of retirement, he has to file a review application before the learned single Judge and get it corrected. Instead of going so, the appellant has approached this Court by filing the present Writ Appeal, which cannot be entertained.”

5.In the above order, it is observed that the Petitioner can only file application for review before the learned single Judge, who passed the order in W.P.No.3235 of 1998 and re-fix his wages. Again the Petitioner filed another W.P.5005 of 2017 seeking direction to the Respondent to pay his backwages from 01.04.1993 to 31.03.2008, Provident Fund, and commuted value of pension from 01.04.2008 till date with interest and costs. The same was ordered on 28.02.2017 as under:

“Pendency of the Writ Petition, the Corporation has also deposited some amount in compliance of Section 17(b) of the Industrial Disputes Act. The Petitioner has also withdrawn that amount. The Petitioner, challenging the portion of the above said



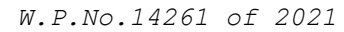
W.P.No.14261 of 2021

order with regard to fixation of back wages at the rate of Rs.2,847/- per month fixed Writ Appeal No.1435 of 2001 and it was dismissed on 10.11.2011.

This Court has perused the typed set of documents which would indicate that the award dated 03.04.1996 made in Industrial Dispute No.34 of 1994 ensuring in favour of the Petitioner is yet to be complied with by the Respondent Corporation. Therefore, the Managing Director of the Respondent Corporation is directed to be present before this Court on 14.03.2017 and before that date, it is also open to him to comply with the said award and confer the retiral/terminal benefits to the Petitioner in its entirety and report before this Court”

6.In the order passed in W.P.No.5005 of 2017 dated 13.09.2017, this Court reiterated the earlier stand taken by the Division Bench of this Court in W.A.No.1435 of 2011. As on today, the Respondents seen to have paid the backwages at the rate of Rs.2,047/- per month till his date of retirement, which occurred on 31.03.2008. So far as his terminal benefits are concerned, the Petitioner has not tuned up and filed appropriate forms and required papers.

7.The learned standing counsel appearing on behalf of the Respondents submitted that he is ready to settle the terminal benefits of the Petitioner, provided the Petitioner makes proper application with relevant forms attached



8. Hence it is up to the Petitioner to file the retiral forms along with the required documents for the consideration of the Respondents to settle his terminal benefits. On receipt of the same, the Respondent shall consider the same and settle terminal benefits for which the Petitioner is entitled within a period of four weeks from the date of receipt of retiral forms along with the required documents of the Petitioner.

18.10.2023

sai



W.P.No.14261 of 2021

To

WEB COPY

The Managing Director,
State Express Transport Corporation,
(Tamil Nadu Division No.1) Limited,
Chennai 600 002



WEB COPY



W.P.No.14261 of 2021

R.N.MANJULA, J.

sai

W.P. No.14261 of 2021

18.10.2023