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W.P.No.8664 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2023

CORAM:

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

W.P.No.8664 of 2014

A.Periyasamy

... Petitioner

-Vs-

1. The Tamil Nadu State Transport Corp.,
Rep. by its Managing Director,
Salem Division – I Ltd.,
Salem – 636 007.

2. The General Manager,
Tamil Nadu State Transport Corp.,
Salem Division – 1,
Salem – 636 007.

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records connected with the orders dated 05.12.2010, passed by the second respondent in Pro.No.E7/PaP/TNSTC/(S)/2010, quash the same and also direct the respondents to regularize the service of the petitioner from 21.12.1995 – the date of accident – to 28.06.2002 – the previous date of his subsequent reinstatement as Helper – and consequently calculate and pay him the six notional increment for the above period and thereby re-fix his basic pay at the appropriate stage in the subsequent new revised scales of pay and also pay all the monetary benefits and



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other attendant legitimate benefits arising thereof on the strength of the orders passed in W.A.473 of 2001 dated 20.04.2005 confirming the orders dated 16.02.2000 passed in W.P.No.13691 of 1996.

For Petitioner : Ms.S.Girija

For Respondents : Mr.R.Babu
Standing Counsel

ORDER

This writ petition has been filed challenging the order dated 05.12.2002, passed by the second respondent, thereby denying the request to refix the service of the petitioner from 21.12.1995 to 28.06.2002 and notional increment along with other monetary benefits.

2. Heard the learned counsel appearing of either side and perused the material placed before this Court.

3. The petitioner had joined as Driver on 01.04.1992 in the first respondent corporation. While being so, his bus met with an accident on 21.12.1995 and he sustained grievous injuries, due to which he sustained permanent disability. Therefore, he unfit to continue as driver as per the medical board report. However, the petitioner was



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issued with show cause notice as to why he should not be discharged on medical ground. It was challenged by the petitioner in W.P.No.13691 of 1996 in which, this Court directed the respondents management to allot a suitable duty or alternative post.

4. It was challenged by the first respondent before the Hon'ble Division Bench of this Court in W.A.No.437 of 2007 and this Court passed an interim order and directed the first respondent to give employment to the petitioner as Helper by an order 05.07.2002. Accordingly, the petitioner was provided the post of Helper and he had joined duty on 29.06.2002 on the pay scale of Rs.3,240-50-4,680/-. Ultimately, the writ appeal filed by the first respondent was dismissed.

5. Subsequent to the order of dismissal, the petitioner made representation to refix his pay on par with other drivers and the same was rejected by the second respondent by the impugned order. Further, the first respondent had corrected the date of joining of the petitioner in the salary slip as 29.06.2006 in the post of Helper. Whereas, the original date of joining of the petitioner in the post of Driver is 01.04.1992. Therefore,



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the impugned order is illegal and liable to be quashed.

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6. Accordingly, the order dated 05.12.2002 passed by the second respondent in Pro.No.E7/PaP/TNSTC/(S)/2010, is hereby quashed. The respondents are directed to take into service of the petitioner from 21.12.1995 and consequently disburse all the monetary benefits such as notional increment and to refix his salary with new revised scale of pay and other attendant benefits within a period of twelve weeks from the date of receipt of a copy of this Order.

7. With the above directions, the Writ Petition stands allowed.

There shall be no order as to cost.

19.09.2023

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts



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To
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Tamil Nadu State Transport Corp.,
Salem Division – I Ltd.,
Salem – 636 007.
2. The General Manager,
Tamil Nadu State Transport Corp.,
Salem Division – 1,
Salem – 636 007.



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G.K.ILANTHIRAIYAN. J.

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