



WEB COPY



W.P.No.17694 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.17694 of 2020

J.Sekar

... Petitioner

Vs.

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

2.The Administrator,
Tamil Nadu State Transport Corporation
Employees' pension Trust,
Thiruvallur Illam,
Pallavan Salai,
Chennai - 2.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to pay the petitioner revised monthly pension w.e.f 01.12.2016 by counting his past service from 01.10.1989 the date of enrollment to provident fund to the date of his medical discharge on 15.09.1996 along with the petitioner's new service as Non-ITI Helper from 15.12.1996 to 30.11.2016 along with difference in pension and other consequential benefits, together with interest at the rate of 12% per annum.



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For Petitioner : Ms.S.Sindhumathy for
Mr.V.Ajoy Khose
For Respondents : Mr.C.Gouthamaraj for R1
No appearance for R2

ORDER

This Writ Petition has been filed seeking issuance of Writ of Mandamus to direct the respondents to pay the petitioner revised monthly pension w.e.f 01.12.2016 by counting his past service from 01.10.1989 the date of enrollment to provident fund to the date of his medical discharge on 15.09.1996 along with the petitioner's new service as Non-ITI Helper from 15.12.1996 to 30.11.2016 along with difference in pension and other consequential benefits, together with interest at the rate of 12% per annum.

2. Heard Ms.S.Sindhumathy, learned counsel for the petitioner and Mr.C.Gauthamaraj, learned counsel for R1.

3. The petitioner was appointed as Conductor in the first respondent Corporation on 18.05.1989 and made permanent with effect from 01.03.1990. He was discharged from service due to medical



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grounds by virtue of order dated 11.09.1996. Thereafter, on the representation of the petitioner for providing alternate employment with continuity of service, an order has been passed on 05.12.1996 and he was observed in the cadre of Non-ITI Helper.

4. The learned counsel for the petitioner submitted that the said appointment has been considered as fresh appointment without giving the continuity of service to the petitioner from 18.05.1989 from which date he joined as Conductor.

5. Since the petitioner has been given with an alternate appointment only in view of the medical reasons, I feel it is squarely covered under the earlier order passed by this Court in W.A.No.1242 of 2014 dated 15.10.2014. The relevant portion of the order is extracted hereunder:

"4. There is no dispute that the respondent was earlier appointed on daily wages from 10th September 1975. He was later appointed on regular basis with effect from 10th May 1986. The respondent was



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discharged only on account of medical grounds. It is true that he was given subsequent appointment with effect from 10th May 1986 on the basis of settlement under Section 18(1) of the Industrial Disputes Act. The appellant cannot be heard to say that the earlier service would not be counted for fixing pension not withstanding the fact that the discharge was only on medical grounds. When it is made out that the respondent was discharged from service medically and not on any other grounds, the appellant cannot be heard to say that the earlier service would not be counted for fixing pension. The issue raised by the respondent was correctly analysed by the writ court and the impugned order was rightly set aside. We do not find any reason to take a different view in the matter. "

6. In the light of the above order and the fact that the petitioner is also a similarly placed person, I feel it is appropriate to direct the respondents to consider the representation of the petitioner and pass appropriate orders within a period of eight weeks.

7. In the result, this Writ Petition is allowed and the respondents



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are directed to consider the representation of the petitioner and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs.

12.10.2023

Index : Yes

Internet : Yes/No

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R.N.MANJULA, J.

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To

- 1.The Managing Director,
Metropolitan Transport Corporation,
Pallavan House, Anna Salai,
Chennai 600 002.
- 2.The Administrator,
Tamil Nadu State Transport Corporation
Employees' pension Trust,
Thiruvallur Illam,
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