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W.P.No.7962 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.7962 of 2017

T.Nelson Franco

... Petitioner

-VS-

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

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

...

Respondents

Prayers : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to grant pension to the petitioner for the entire service from 01.09.1980 to 31.08.2011 and consequently to pay revised pension from the date of retirement.



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For Petitioner : Mr.S.T.Varadarajulu
For R1 : Mr.L.S.M.Hasan Fizal
For R2 : Mr. C.S.K.Sathish

ORDER

This Writ Petition has been filed, seeking for a direction to the respondents to grant pension to the petitioner for the entire service from 01.09.1980 to 31.08.2011 and consequently to pay revised pension from the date of retirement.

2. It is the case of the petitioner that he joined the service of the respondent Corporation on 01.09.1980 and during service, he availed leave from 03.03.1999, for which, disciplinary action was initiated, which had resulted in dismissal of the petitioner on 31.10.2000. Against the order of dismissal, he raised an Industrial Dispute in I.D.No.20 of 2003, in which, the Labour Court, vide order dated 24.02.2006 set aside the order of dismissal and ordered for reinstatement with continuity of service, but without backwages. Though he was reinstated in service in November, 2006, he was forced to forgo his earlier service. Then the petitioner filed



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W.P.No.14062 of 2008 seeking direction to add his earlier service for pensionary benefits where this Court by order dated 30.07.2008 directed the respondent to add his earlier service for granting pension. It is further case of the petitioner that he attained superannuation on 31.08.2011, despite the direction issued by this Court, the respondent did not choose to calculate his pensionable service for granting pension. Hence, the petitioner is before this Court seeking for the aforesaid relief.

3. Heard the learned counsel for the respective parties and perused the material on record.

4. It is not in dispute that the petitioner was appointed as Tradesman in the respondent Corporation and he was dismissed from service for the leave availed by him. In I.D.No.20 of 2003 raised by him, the Labour Court, vide order dated 24.02.2006 set aside the order of dismissal and ordered for reinstatement with continuity of service, but without backwages. That apart, the petitioner also got the benefit of the order of this



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Court in W.P.No.14062 of 2008, vide which, a direction was issued to the respondents to add his earlier service for granting pension.

5. It is saddening to note that for availing a leave, that too after forwarding the leave application, the petitioner was imposed with a major punishment of dismissal from service, which was rightly set aside by the Labour Court. For every stage, the petitioner was forced by the respondents to knock at the doors of this Court for getting his benefits, which is not acceptable. It is not known as to why the petitioner did not file a contempt petition against the respondents for non-compliance of the order of this Court, as it is a fit case for punishing the respondents for wilful disobedience of the orders of this Court under the Contempt of Courts Act and the order for counting his earlier service was passed as early as on 30.07.2008. The act of the respondents is highly deprecated and the petitioner has been drawing lesser pension on account of the inaction on the part of the respondents.



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6. Hence, this Writ Petition is allowed, with a direction to the respondents to grant pension to the petitioner for the entire service from 01.09.1980 to 31.08.2011 and consequently to pay revised pension from the date of retirement. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.

14.12.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
mps

To:

1. The Managing Director,
State Express Transport Corporation (Tamil Nadu) Ltd.,
Anna Salai, Chennai - 600 002.
2. The Administrator,
Tamil Nadu State Transport Corporation
Employees' Pension Fund,
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V.BHAVANI SUBBAROYAN, J,



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