



W.P.(MD)No.7154 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.7154 of 2020
and
W.M.P(MD)No.6589 of 2020

P.Rajinikanthan

... Petitioner

Vs.

1.The Management,
Tamil Nadu State Transport Corporation,
Rep. by its General Manager,
Division – 3,
Madurai (Nagercoil).

2.The General Manager,
Tamil Nadu State Transport Corporation,
Nagercoil Region,
Ranithottam Branch III,
Nagercoil.

3.The Branch Manager,
Tamil Nadu State Transport Corporation,
Nagercoil Region,
Ranithottam Branch III,
Nagercoil.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records



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pertaining to the impugned proceedings in letter No.9773/Ooupi/Nager/ThaApoka/(Thili)/2023, dated 04.03.2020 on the file of the second respondent and quash the same as illegal and consequently, for a direction, directing the respondents to disburse the pension, arrears of salary and arrears of Gratuity eligible to the petitioner with interest and other consequential benefits, further to the petitioner's retirement from services of the respondent Corporation with effect from 31.05.2017 within the time period stipulated by this Court.

For Petitioner	: Mr.Aswin Rajasimman for Mr.T.Lajapathi Roy
For Respondents	: Mr.R.Rajamohan

ORDER

This writ petition has been filed to quash the impugned proceedings of the second respondent in letter No.9773/Ooupi/Nager/ThaApoka/(Thili)/2023, dated 04.03.2020, as illegal and consequently, to direct the respondents to disburse the pension, arrears of salary and arrears of Gratuity, eligible to the petitioner with interest and other consequential benefits, with effect from 31.05.2017, within a specified period.



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2. The case of the petitioner is that the petitioner was originally appointed as Company Trainee Driver in the former Maruthupandiar Transport Corporation, Karaikudi on 01.09.1986. Subsequently, his service was extended vide order, dated 22.11.1986. On 27.07.1987, service of the petitioner was confirmed in the respondent corporation. While being so, on 20.10.1990, when the petitioner was driving a passenger bus bearing Registration No.TN740018 from Nagercoil to Chennai, the bus met with an accident, in which, five passengers suffered simple injuries. Hence, the petitioner was placed under suspension and subsequently, he was removed from service alleging that the petitioner caused loss to the respondent corporation. Challenging the same, the petitioner raised a dispute before the labour Court, Tirunelveli in I.D.No.181 of 1993 and the same was dismissed vide order, dated 27.03.2006. Hence, the petitioner filed a writ petition before this Court in W.P(MD)No.955 of 2007. This Court allowed the writ petition and set aside the punishment of dismissal from service and modified into an order of reinstatement without back wages, but with continuity of service. Pursuant to the same, the petitioner was reinstated into service vide order, dated 15.04.2013. Thereafter, the petitioner retired from



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service on 31.05.2017. However, terminal benefits were not disbursed to the petitioner. Hence, the petitioner filed a writ petition in W.P.(MD)No.17204 of 2018 seeking for a direction to disburse the arrears of pension, arrears of gratuity due and other consequential benefits. The said writ petition was disposed of with a direction to consider the representation of the petitioner within a period of six weeks. However, the request of the petitioner was rejected vide the impugned order on the ground that he was not completed the qualified service of ten years and therefore, he is not entitled for pensionary benefits. Challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that the petitioner entered into service as a Trainee Driver in Maruthupandian Transport Corporation and subsequently, he was transferred to the respondent Corporation. As the bus driven by the petitioner was met with an accident, the petitioner was removed from service and the said dismissal order was set aside by this Court. Subsequently, pursuant to the order of this Court, the petitioner was



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reinstated into service without back wages, but with continuity of service. However, without considering the said fact, the second respondent has passed impugned order on the ground that the petitioner has not completed the qualified number of service, which is not sustainable one and contrary to the order passed by this Court.

4. The learned Standing Counsel appearing for the respondents, would submit that as per Rule 16 of the Tamil Nadu State Transport Corporation Employees Pension Fund Rules, the workman has to acquire minimum ten years of qualifying service, to sanction pension and as per Rule 2(v), the pensionable service means, the service rendered by the member for which the contributions have been received and according to Rule 2(o), “Contributory Service” means, the period of actual service rendered by the member for which the contributions to the fund have been received. In respect of the petitioner, initially he was paid with daily wages with effect from 19.06.1986. Subsequently, he was absorbed into service with effect from 15.07.1987 and he was paid with monthly salary. Subsequently, he was dismissed from service on 07.04.1991 and reinstated into service on 02.04.2015 and retired from service on



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31.05.2017 and therefore, his qualifying service is only five years and hence, he is not eligible for pension and the petitioner was paid with gratuity for the service period and therefore, there is no error or illegality in the order passed by the second respondent and hence, prayed for dismissal of this writ petition.

5. Heard the learned counsel appearing for the petitioner, the learned standing counsel appearing for the respondents and perused the materials available on record.

6. Admittedly, the petitioner entered into service as a Trainee Driver in the year 1986. Thereafter, his service was confirmed in the year 1987 and thereafter, he was transferred to the respondent Corporation in the year 1990. However, due to the accident caused by the petitioner, he was placed under suspension and thereafter, he was removed from service 07.04.1991. Challenging the same, the petitioner has filed a writ petition in W.P(MD)No.955 of 2007. This Court vide order, dated 15.04.2013 allowed the said writ petition. Relevant portion of the said order reads as follows:



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“10.In the result, the writ petition is allowed and the impugned award is set aside and the punishment of dismissal from service passed against the petitioner is set aside and the same is modified into an order of reinstatement without back wages, but with continuity of service. On the petitioner being reinstated in service, he shall be sent for course on safe driving in the respondent Transport Corporation or sent to the Institute of Road Transport for a minimum period of one month and it is only thereafter, the petitioner shall be permitted to drive the bus of the first respondent Corporation.”

7. Pursuant to the order passed by this Court, the petitioner was reinstated into service and subsequently, he retired from service. However, the second respondent has passed impugned order rejecting the request of the petitioner to disburse the pension, arrears of salary and arrears of Gratuity, eligible to the petitioner with interest and other consequential benefits, on the ground that the petitioner has not completed the qualified number of service. However, this Court in the order dated 15.04.2013 passed in W.P(MD)No.955 of 2007, directed reinstatement without back wages, but with continuity of service.



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However, the second respondent has mechanically passed the impugned order which is contrary to the order of this Court and hence, this Court has no hesitation to set aside the impugned order.

8. Accordingly, this writ petition is allowed and the impugned order passed by the second respondent, dated 04.03.2020, is hereby set aside. The respondents are directed to calculate the petitioner's service in terms of the order passed by this Court, dated 15.04.2013, in W.P(MD)No.955 of 2007 and disburse the pension and arrears of pension etc., within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

11.01.2023

PM
NCC:Yes/No
Index:Yes/No



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M.DHANDAPANI,J.

pm

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