



W.P(MD)No.13732 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2023

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.13732 of 2021

and

W.M.P(MD)Nos.10658 & 10659 of 2021

P.Balasubramaniam

... Petitioner

Vs.

1.The Management of Tamil Nadu

State Transport Corporation (Kumbakonam) Ltd.,
Represented by its Managing Director,
Kumbakonam.

2.The Administrator,

Tamil Nadu State Transport Employee's
Pension Fund Trust,
Thiruvalluvar Illam,
Anna Salai, Chennai-2.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to pay the petitioner 50% back wages for the period from 18.02.94 to 14.08.03 and 100% back wages for the period from 15.08.03 to 30.04.13 and all other service /monetary benefits as per the award of the Labour Court, Cuddalore dated 14.08.03 in I.D No.85/97 as upheld by this Court in its order, dated 22.07.19 in WP.No.9281/2004 and also to settle and pay all his terminal benefits for his entire service period



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from 18.01.77 to 30.04.13, together with 18% interest per annum from 30.04.18 and further directing the respondents to pay him pension every month and pension arrears from may 2013 and pension commutation by treating his entire service period from 18.01.77 to 30.04.13 as his pensionable service under the TNTCEPFS pension Rules, together with 18% interest p.a, within a time frame as may be fixed by this Court.

For Petitioner : Mr.S.Arunachalam

For R1 & R2 : Mr.S.C.Herold Singh
Standing Counsel

ORDER

The present writ petition has been filed by a retired Conductor seeking 50% of backwages for the non-employment period and for other consequential benefits as per the award of the Labour Court, Cuddalore, dated 14.08.2003 in I.D.No.85 of 1997.

2. According to the writ petitioner, he was dismissed from service on 18.02.1994. The said dismissal order was challenged by him before Labour Court, Cuddalore in I.D.No.85 of 1997. The Labour Court was pleased to allow the Industrial Dispute on 14.08.2003 setting aside the punishment imposed upon the writ petitioner with a direction to pay 50% of backwages for the period of non-employment. This order was



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challenged by the management in W.P.No.9281 of 2004. This Court was pleased to dismiss the said writ petition on 22.07.2019. The writ appeal filed by the management in W.A.No.4264 of 2019 was dismissed by the Hon'ble Division Bench on 21.04.2021.

3. In view of the exoneration of the writ petitioner from the charges, the petitioner is entitled to all the benefits, except the backwages to an extent of 50%. However, since the management has not complied with the award of the Labour Court, the petitioner has filed the present writ petition.

4. The petitioner had attained superannuation on 30.04.2013. Pending writ petition, the respondent management had disbursed the 50% of the backwages, gratuity amount and leave salary. However, other attendant benefits, namely increment and review benefit have not been conferred upon the writ petitioner. Hence, the present writ petition.

5. According to the learned counsel appearing for the writ petitioner, though a part of the prayer of the writ petition has already been conceded to by the respondents, the balance amount has not been disbursed.



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6. Per contra, the learned Standing Counsel appearing for the respondent Corporation pointed out that the award of the Labour Court contended that the Labour Court has just awarded 50% of the backwages along with continuity of service. The Labour Court has not awarded attendant benefits or consequential benefits pursuant to the award. Therefore, transport corporation is not liable to pay other attendant benefits arisen out of exoneration of the writ petitioner.

7. I have carefully considered the submissions made on either side and perused the records.

8. A perusal of the award of the Labour Court clearly indicates that the petitioner has been completely exonerated from the charges. The Hon'ble Division Bench in W.A.No.4264 of 2019, dated 21.04.2021 in Paragraph No.6 has held that the charges having not been proved and the award of the Labour Court as confirmed by the learned Single Judge does not warrant interference. Therefore, it is clear that the petitioner has been exonerated of all the charges. Whenever an employee is completely exonerated of all the charges after the enquiry, he is entitled to receive all the attendant / consequential benefits except backwages, which is at the



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discretion of the Court. In the present case, the Labour Court has exercised its discretion and has awarded 50% of the backwages. Even if the Labour Court has not mentioned anything about the consequential or attendant benefits, the same is deemed to have been conferred upon an employee who has been exonerated in entirety.

9. In the present case, the petitioner having been exonerated of all the charges and hence, he is entitled to all the attendant benefits including increment and review benefits. If their increments are stopped by the management, it would amount to imposition of punishment of stoppage of increment which cannot be done unless by a due process of law.

10. In view of the above said facts, this Writ Petition stands allowed directing the respondent Transport Corporation to disburse the increment due to the writ petitioner along with review benefits within a period of twelve (12) weeks from the date of receipt of copy of this order. In view of granting of increments, the terminal benefits will get substantially altered. Therefore, the respondent authorities are also directed to re-assess the terminal benefits and confer the same within a



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period of six (6) months from the date of receipt of copy of this order.

From the date of dismissal till the award of the Labour Court, the petitioner would be entitled to notional increment and after the date of award, the petitioner would be entitled to receipt of the actual increments.

11. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

21.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

1.The Managing Director,
The Management of Tamil Nadu
State Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam.

2.The Administrator,
Tamil Nadu State Transport Employee's
Pension Fund Trust,
Thiruvalluvar Illam,
Anna Salai, Chennai-2.

R.VIJAYAKUMAR,J.



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Dated:
21.12.2023