



W.P.(MD)No.24703 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 24703 of 2018

M.Nagendra Pillai

... Petitioner

Vs.

1. Tamil Nadu State Transport Corporation (Thirunelveli) Limited,
Represented by its Managing Director,
Vannarapettai,
Tirunelveli - 627 003.

2. The General Manager,
Tamil Nadu State Transport Corporation (Tirunelveli) Limited,
Nagercoil Region,
Rani Thottam,
Nagercoil - 629 001.

3. The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai - 600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order No.10342/a10/Nager/TNSTC (Thili)/2010, dated 28.07.2015



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and order in Ref.No.Spl/Sa.BaPi/TNSTC (T.Veli)2018/ dated 05.09.2018, passed by the 2nd respondent quash the same in so far as not taking the period from 05.11.2008 to 28.07.2015 for the purpose of calculating the petitioner's pension and for the purpose of granting annual increment, review benefit, pay revision benefit etc., and direct the respondents 1 & 2 to pay necessary employer's contribution of the provident fund for the above said period to the 3rd respondent's Trust and to direct the 3rd respondents to re-fix his pension and retire benefits based on the pay revision given under settlements under Section 12(3) of the I.D. Act, dated 22.01.2011 and 13.04.2015 and disburse the eligible monetary benefits including annual increment, review and pay revision etc., together with suitable rate of interest payable from the date of his medical discharge i.e., 28.07.2015 to till the date on which the above amounts are settled within a time frame that may be fixed by this Court.

For Petitioner : Mr.H.Vinoharan, for
Mr.A.K.Thangavelu

For Respondents : Mr.D.Jebaraj, for R-1 & R-2
Mr.S.C.Herold Singh, for R-3

ORDER

This writ petition has been filed to quash the impugned orders, dated 28.07.2015 & 05.09.2018 and also to re-fix the pension and retirement benefits and disburse the same based on the Section 12(3) Settlement dated 22.01.2011 and 13.04.2015.



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2. Heard Mr.H.Vinoharan, for Mr.A.K.Thangavelu, the Learned counsel appearing for the petitioner, Mr.D.Jebaraj, the Learned counsel appearing for the respondents 1 & 2, Mr.S.C.Herold Singh, the Learned counsel appearing for 3rd respondent and perused the material documents available on record.

3. The petitioner joined the respondent corporation as Helper on 01.09.1991 and his service was regularized with effect from 01.01.1992. Rather than he was promoted as Assistant Draughtsman and posted in the Tyre Replacement Section for above 25 years. The work causes severe pain in Spinal Cord and hence the petitioner could not report to duty from 03.03.2006. The Doctor diagnosed that there was disc bulge at C3-C4, C4-C5 and C6-C7. The petitioner was also diagnosed that Mercury had deposited in blood and brain. Hence the petitioner has applied for medical leave and the same is marked in the Attendance Register.

4. The contention of the petitioner is, subsequently, the petitioner has reported to duty before the authorities. Considering the petitioner's plight, from



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March 2007 onwards, he was granted alternative employment and the petitioner had served until 2008. But suddenly the respondents refused to grant alternative employment and hence, the petitioner could not continue his employment. Also, the respondents have not referred the petitioner to Medical Board to review the condition of the petitioner. Again, the petitioner has submitted a representation to post him alternate employment. From 16.09.2009 onwards the petitioner had requested the respondents to grant alternate employment. But finally, the official respondents have referred the petitioner to Medical Board on 13.11.2013. Based on the reference, the Doctor has given a report the petitioner is not fit to continue his job. Thereafter the respondents have discharged the petitioner from service and had paid the terminal benefits and other benefits applicable to the petitioner. However, the respondents have failed to calculate the period from 16.09.2009 to 28.07.2015 to pay the terminal benefits and other benefits to the petitioner.

5. It is seen from the records that the respondents have granted alternate employment for a period from March 2007 to October 2007. The respondents had filed counter. But the respondents failed to explain why suddenly the respondents have declined alternate employment and also not



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referred to the Medical Board. The respondents have subsequently referred the petitioner to the Medical Board on 13.11.2013 only, therefore it is the mistake of the respondents.

6. Accordingly, the petitioner is entitled to calculate the service for a period from 16.06.2009 until he discharged on 28.07.2015 along with his regular period of service. The respondents are directed to add the said service and pay the benefits to the petitioner. The said exercise shall be completed within a period of four months from the date of receipt of a copy of the order.

7. With these observations, this Writ Petition is allowed. No Costs.

Index : Yes / No
Internet : Yes
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S.SRIMATHY, J

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**ORDER made in
W.P.(MD)No.24703 of 2018**

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