



W.P.(MD)No.22580 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :22.02.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.22580 of 2018

M.Chandrasekaran

... Petitioner

Vs.

1.The Management of
Tamilnadu State Transport Corporation(Kumbakonam) Ltd.,
Kumbakonam Region,
Rep. by its Managing Director,
Kumbakonam.

2.The Administrator,
Tamil Nadu State Transport Employees' Pension Fund Trust,
Thiruvalluvar Illam,
Anna Salai,
Chennai – 2.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the first respondent to recalculate gratuity of the petitioner, by taking the monthly wages payable to him on the month of his retirement and also by taking his service period



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as 32 years and to pay him Rs.81,445/- as balance of gratuity, together with interest, along with interest amount towards the delayed payment of part of gratuity amount Rs.4,07,250/- for the period from 01.07.2016 to 19.09.2017 at the rate as per Section 7 (3A) of the Payment of Gratuity Act and also interest amount towards the delayed payment of EPF amount Rs.2,04,927/- for the period 01.07.2016 to 07.07.2017 at the rate of 18% per annum and further directing the respondents to pay him pension payable for the period from July 2016 to July 2017, together with 18% interest per annum, within a time frame as may be fixed by this Court.

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.D.Sivaraman

ORDER

This writ petition has been filed seeking for a direction to the first respondent to recalculate gratuity of the petitioner, by taking the monthly wages payable to him on the month of his retirement and also by taking his service period as 32 years and to pay him Rs.81,445/- as balance of gratuity, together with interest, along with interest amount towards the delayed



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payment of part of gratuity amount Rs.4,07,250/- for the period from 01.07.2016 to 19.09.2017 at the rate as per Section 7 (3A) of the Payment of Gratuity Act and also interest amount towards the delayed payment of EPF amount of Rs.2,04,927/- for the period from 01.07.2016 to 07.07.2017 at the rate of 18% per annum and further, directing the respondents to pay him the pension payable for the period from July 2016 to July 2017, together with 18% interest per annum, within a specified period.

2. The learned counsel appearing for the petitioner would submit that the petitioner was appointed as a 'Conductor' in the first respondent Corporation. The further case of the petitioner is that since the petitioner suffered stroke in the year 2013, he was under continuous medical treatment, he decided to go on Voluntary Retirement. Accordingly, the petitioner gave a petition on 08.01.2014, but the same was not considered by the first respondent. Hence, the petitioner filed a writ petition in W.P.(MD)No.22320 of 2015 and the said writ petition was allowed vide order, dated 17.10.2016, whereby the first respondent was directed to pass orders on the petitioner's application for Voluntary Retirement and settle all



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the benefits in twelve equal monthly installments, starting from the month of 1st of week of December, 2016. In the meanwhile, the petitioner attained the age of superannuation. Hence, the first respondent passed an order, dated 25.07.2017, retiring the petitioner from service from 30.06.2016. The grievance of the petitioner is that, the petitioner has not been paid with the terminal and pension benefits immediately after the date of retirement and further, the petitioner is entitled to get terminal and pension benefits, based on the wages payable to him for the month of the petitioner's retirement ie., June, 2016. However, the first respondent calculated the terminal benefits based on the wages payable to the petitioner in the month of March, 2014, which is not sustainable one and hence, prays for appropriate orders.

4. The learned standing counsel appearing for the respondents would submit that as per the calculation sheet submitted by the Corporation, the qualifying service of the petitioner is 30 years. If any employee is on loss of pay for more than 120 days in any financial year, the one year service will be deducted for gratuity calculation. The petitioner was on loss of pay



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during the financial year 2014-2015 – 365 days, in 2015-2016 – 366 days.

Hence, the gratuity was calculated for a period of 30 years only and the same was settled to the petitioner.

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 was appointed as a Conductor. He retired from service on 30.06.2015. The respondent Corporation has not paid the gratuity amount for a period of two years on the ground that the petitioner was on loss of pay during 2014-2015 and 2015-2016. Without any Rules or Guidelines and without any statutory backing, deduction of two years period from the petitioner's service is not sustainable one and the petitioner is entitled to succeed in this writ petition.

7. In view of the above, this writ petition is allowed. The first respondent is directed to pay the gratuity amount for the non-payment



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period of two years and pension arrears and 4% interest for the belated settlement of the terminal benefits. The above said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. No Costs.

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

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M.DHANDAPANI, J.

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