



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 18129 of 2016

R.Swamikannu Pillai

... Petitioner

Vs.

1. The Managing Director,
The Tamil Nadu State Transport
Corporation (Tirunleveli) Limited,
Tirunelveli.
2. The General Manager,
The Tamil Nadu State Transport
Corporation (Tirunleveli) Limited,
Nagercoil.
3. The Administrator,
The Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Pallavan Salai, Chennai-02.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to pay back wages and all other monetary benefits from 29.05.2010 being the date of dismissal till the date of 30.06.2013 being the date of superannuation and to pay retirement



WEB COPY

benefits including the monthly pension to the petitioner consequent on the orders of Special Deputy Commissioner of Labour, Chennai passed in approval petition No.53 of 2010, dated 04.06.2014, rejecting the approval petition filed by the respondents.

For Petitioner : M/s.C.Thangamani

For Respondents : Mr.K.Sathiya Singh
Standing Counsel

ORDER

This writ petition is filed for *Writ of Mandamus*, directing the respondents to pay backwages from 29.05.2010 till the date of dismissal i.e., 30.06.2013 being the date of superannuation and to pay retirement benefits, including the monthly pension to the petitioner, consequent to the order of the Special Deputy Commissioner of Labour, Chennai, dated 04.06.2014, rejecting the approval petition filed by the respondents.

2. Heard Mr.C.Thangamani, the Learned Counsel appearing for the petitioner and Mr.K.Sathiya Singh, the Learned Standing Counsel appearing for the respondent and perused the material documents placed on record.



WEB COPY

3. The petitioner has joined service of the Transport Corporation on 01.08.1981. The respondents have initiated an action for the allegation of unauthorized absence from duty for more than 10 days from 26.07.2006 onwards.

4. The contention of the petitioner is that, he was absented only for 10 days, subsequently, when he submitted for joining report, the respondents have declined work to the petitioner, thereby the petitioner was not allowed to work until 29.05.2010. The respondents have passed a dismissal order, on 29.05.2010. and sought for approval from the appropriate authority, which was granted. Since it is an exparte order, the petitioner was aggrieved and filed a petition before the appropriate authority to revoke the approval order. After considering the objections of the petitioner, the approval was revoked and declined, vide order, dated 04.06.2014. In effect the dismissal order passed against the petitioner is non-est in the eye of law. In the meanwhile, the petitioner had attained superannuation on 30.06.2013. Hence, the petitioner has come forward with this petition to grant backwages and other monetary benefits.



WEB COPY

5. The learned counsel appearing for the respondents submitted that the petitioner was dismissed from service on 29.05.2010. Hence, the petitioner is not entitled to get backwages from 2010-2013.

6. By taking all facts into consideration, this Court is of the considered opinion that the Dismissal order passed by the respondents shall converted into Compulsory Retirement, however, the date of retirement shall be pay fixed on 04.06.2014, the date on which the approval was declined. The respondents shall take the petitioner service from the date of joining the regular service until 04.06.2014 and grant pension and other benefits applicable to the petitioner. However, the petitioner is not entitled to backwages for the non-employed period. The said exercise shall be completed within a period of 12 weeks, from the date of receipt of a copy of the order.



WEB COPY

7. With these observations, this Writ Petition is disposed of. No

Costs.

Index : Yes / No
Internet : Yes
ksa

19.06.2023

To

1. The Managing Director,
The Tamil Nadu State Transport
Corporation (Tirunleveli) Limited,
Tirunelveli.
2. The General Manager,
The Tamil Nadu State Transport
Corporation (Tirunleveli) Limited,
Nagercoil.
3. The Administrator,
The Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Pallavan Salai, Chennai-02.



WEB COPY



S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 18129 of 2016**

19.06.2023