



W.P.(MD)No.1344 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.1344 of 2017

and

W.M.P(MD)No.1110 & 1111 of 2017

S.Marikannu

...Petitioner

Vs.

1.The Management of

Tamil Nadu State Transport Corporation (Madurai) Ltd,
Madurai Region,
Rep by its General Manager,
Madurai

2.The Administrator

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

... Respondents



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Prayer : Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Certiorarified Mandamus calling for the records from the first Respondent relating to the impugned order dated 31.05.2016 in Ref: Administration/A5/101/2016-40 of the first respondent, quash the same and consequently to direct the respondents to settle and pay all the retirement and pension benefits of the petitioner with 18% interest per annum.

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.J.Senthil Kumariah - for R1

Mr.A.P.Muthu pandian - for R2

ORDER

This Writ Petition has been filed against the order dated dated 31.05.2016 in Ref: Administration/A5/101/2016-40 of the first respondent and for consequential direction to the respondents to settle and pay all the retirement and pensionary benefits of the petitioner with 18% interest per annum.



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2. Heard the learned counsel for the petitioner, learned Standing Counsel appearing for the respondents and perused the materials available records.

3. The case of the petitioner is that he was appointed as Conductor on 26.12.1986 in the first respondent Corporation. Subsequently, he was promoted as Special Grade Conductor. Due to the dispute took place within the premises of the Melur Branch of the first respondent on 28.01.2016 between the employees, a case was registered at Melur Police Station in Crime No.71 of 2016 wherein, the petitioner was shown as one of the accused. On 29.01.2016 the petitioner was kept under suspension and subsequently, the suspension order was revoked on 03.02.2016. A charge memo was issued on 25.02.2016 to the petitioner and the petitioner has submitted his explanation. On the basis of enquiry report dated 12.04.2016, a show cause notice dated 26.04.2016 was issued to the petitioner asking his explanation. The petitioner gave explanation on 05.02.2016. The enquiry is pending. Under such



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circumstances, on 31.05.2016, the petitioner completed the age of 58 years which is the age of superannuation and the first respondent order dated 30.05.2016 retiring the petitioner from service with a condition that the petitioner was permitted to retire without prejudice to the outcome of the disciplinary proceedings and the criminal case. Thereafter, the first respondent did not settle the pensionary benefits to the petitioner. On enquiry the first respondent informed that since the disciplinary proceedings are pending against the petitioner, the terminal benefits cannot be settled and that only after conclusion of the same, decision will be taken with regard to payment of the said benefits.

4. The learned counsel for the petitioner submits that the impugned order dated 30.05.2016 is unsustainable under law. The first respondent cannot continue the disciplinary proceedings based on the charge memo, dated 25.02.2016, after retirement of the petitioner and they cannot withhold the pensionary benefits. The petitioner sent a detailed representation on 09.11.2016 requesting to



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settle the terminal benefits. As there is no reply from the first respondent, the petitioner is constrained to file the present Writ Petition and sought to allow the Writ Petition.

5. On behalf of the first respondent, a counter affidavit has been filed, wherein, it is averred that the criminal case registered against the petitioner and the disciplinary proceedings are pending and due to that reason the pensionary benefits are not settled.

6. However, during the course of hearing, the learned Standing Counsel appearing for the first respondent placed a letter addressed to him by the first respondent Corporation, on 07.08.2023.

7. On careful perusal of the same, it appears that the petitioner was paid with Provident Fund amount, Gratuity amount, Pension amount, Pension Commutation amount, Pension arrears, Unavailed Leave Salary, Surrender Leave Salary, Employee



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Retirement Benefit Scheme, Social Security Scheme, Institute of Road Transport Technology Refund amount and all these amounts are paid on different dates from 08.08.2017 to 15.03.2023.

8. The learned counsel for the petitioner also accepted that the said amounts are received by the petitioner.

9. In view of the present factual situation, the learned counsel for the petitioner submits that the petitioner is restricting his relief to the extent of claiming interest on the belated payment of terminal benefits.

10. The learned counsel has also placed a copy of the order, dated 13.06.2022 passed in W.P.(MD)No.11532 of 2022.

11. On careful perusal of the said order, it appears that by following the order, dated 13.12.2019 passed in W.P.(MD) No.26481 of 2019, wherein, it is directed to pay the interest on the



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belated payment at the rate of 6% per annum. W.P(MD)No.11532 of 2022 is allowed with a direction to the respondents to pay interest to the petitioner at the rate of 6% per annum on the belated payment of the retirement benefits.

12. In view of the facts and circumstances of the case, in the considered opinion of this Court, in the present case also the petitioner is entitled for the interest on the belated payment of the retirement benefits, due to the reason that though the petitioner was permitted to retire from service on 31.05.2016 vide impugned proceedings, admittedly there is some delay in settling the pensionary and other terminal benefits to the petitioner by the first respondent.

13. Accordingly, by following the above orders stated supra, this Writ Petition is allowed with the following directions :

1. The respondents shall pay interest to the petitioner at the rate of 6% per annum on the belated



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payment of the retirement benefits commencing from the date of retirement, till date of actual disbursement, within a period of three months from the date of receipt of a copy of this order.

2. No costs.

3. Consequently connected miscellaneous petitions are closed.

23.08.2023

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

RM



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To

1.The General Manager,
Management of Tamil Nadu State Transport
Corporation (Madurai) Ltd,
Madurai Region,
Madurai

2.The Administrator
Tamil Nadu State Transport Employees Pension Fund Trust,
Thiruvalluvar Illam,
Anna Salai,
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BATTU DEVANAND, J.

RM

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