



W.P.(MD)No.27045 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD)No.27045 of 2019**  
**and**  
**W.M.P.(MD)No.23390 of 2019**

N,Krishnamoorthy (Died)  
Annam

... Petitioner

vs.

1.Deputy Manager,  
Tamilnadu State Transport Corporation  
(Madurai) Limited,  
Madurai-16.

2.The Administrator,  
Tamil Nadu State Transport Corporation  
Employees Pension,  
Fund Trust, Thiruvalluvar Illam,  
Pallavan Salai, Chennai-2.

... Respondents

***(Petitioner substituted, vide Court order,  
dated 15.03.2023, in W.M.P.(MD)No.  
5747 of 2021 in W.P.(MD)No.27045  
of 2019)***



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**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records connected with impugned order passed by the 1<sup>st</sup> respondent in his proceedings: Parvai: vainithi 5/341, dated 13.11.2019 and to quash the same and consequently, to direct the respondents to pay all terminal benefits and other consequential benefits including monthly pension along with 18% interest from the year of appointment in 1973 till the date of retirement on 31.03.2007 with cost of Rs.20,000/- for unnecessarily litigating the disabled retired petitioner.

For Petitioner : Mr.S.Govindan  
For R1 : Mr.J.Senthil Kumaraiah  
For R2 : Mr.S.C.Herold Singh

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### **ORDER**

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned order dated 13.11.2019 passed by the 1<sup>st</sup> respondent and consequently, to direct the respondents to pay all terminal benefits and other consequential benefits including monthly pension along with



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18% interest from the year of appointment in 1973 till the date of retirement on 31.03.2007 with cost of Rs.20,000/- for unnecessarily litigating the disabled retired petitioner.

2. The petitioner joined the respondent Corporation as Driver in the year 1973 and was subsequently, promoted as a Special Grade Driver on 07.06.1983. A charge sheet was issued against the petitioner for an alleged misconduct of unauthorizedly driving a vehicle. After an enquiry, the petitioner was dismissed, vide order, dated 24.07.1995. The petitioner raised a dispute in I.D.No.220 of 2001 and the order of dismissal was set aside, vide order, dated 21.09.2007. Thereafter, the respondents were directed to reinstate the petitioner without backwages and other benefits. The respondents have not challenged the award of the Labour Court. The petitioner attained superannuation on 31.03.2007 just few months before the award of the Labour Court.



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3. Since the respondents have not reinstated the petitioner, the petitioner has filed a claim petition in C.P.No.105 of 2009 under Section 33(c)(2) of Industrial Disputes Act. The Labour Court, vide order, dated 30.08.2011, held that the petitioner is entitled to terminal benefits. Since the dismissal order was set aside finally, the Labour Court directed the petitioner to approach the management and file an application for pension and the respondents were directed to consider the application. Pursuant to the direction, the petitioner has submitted a petition on 15.10.2012, requesting the respondents to pay the terminal benefits and pensionary benefits. Since the respondents have not taken any action, the petitioner has filed W.P.(MD)No.7674 of 2015 to settle the terminal benefits. This Court directed the respondents to consider the representation, dated 16.12.2013, in the light of the award passed in favour of the petitioner and pass orders. The petitioner has submitted a detailed explanation along with the order. The respondents did not pass





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not preferred any appeal against the said order, the respondents cannot state that the petitioner has not served even a single day and hence, the petitioner is not entitled to pensionary benefits. Even if it is accepted, atleast the petitioner is entitled to all terminal benefits that is applicable to the petitioner due to the order of the Labour Court.

5. Therefore, in order to grant relief to the petitioner, this Court is passing the following order:

i) Since the petitioner was directed to be reinstated, the petitioner is entitled to terminal benefits that is applicable to the said post. However, the service is restricted from 1973 to 1995 and from 2001 to 2007. The petitioner is not entitled to any benefits for the period from 1995 to 2001. The respondents are directed to pay all terminal benefits by taking the above said service into consideration.



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ii) As far as the pensionary benefits is concerned, since the respondents have formulated the new scheme from 1998 onwards and this Court has directed to take the service from 2001 to 2007, the employer shall remit the employer's contribution to the Pension Trust from the eligible salary for the said period from 2001 to 2007, thereafter the respondents shall pay the pensionary benefits from the said amount.

iii. The above directions shall be complied within a period of eight weeks from the date of receipt of the copy of the order.

6. With the above said observation, the writ petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

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

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