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W.P.No.1782 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.1782 of 2024

B.Sekar

Petitioner

Versus

1.The General Manager,
Tamilnadu State Transport Corporation,
(Villupuram Division-II) Ltd., Vellore Region,
Rangapuram,
Vellore 632 009

2.The Administrator,
Tamilnadu State Transport Corporation,
Employees Pension Fund Trust,
Pallavan Salai, Chennai 600 002

Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of mandamus directing the respondents to revise the petitioner pension from the date of retirement by taking note of his entire service.

For Petitioner : Mr.S.T.Varadarajalu

For Respondents

For R1 : Mr.K.Venkatesa Perumal,
Standing Counsel

For R2 : Mr.C.S.K.Sathish,
Standing Counsel



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ORDER

This writ petition has been filed for direction to the respondents to revise the petitioner's pension from the date of retirement by taking note of his entire service.

2. Heard, the learned counsel appearing on either side.

3. The petitioner had joined in the service of the second respondent Corporation as Conductor on 18.09.1985 on daily wage basis. Subsequently he was made permanent on 29.09.1986. While he was on duty, he fell down from a tree and as such, he could not attend duty from 19.05.2000. After recovery, when he reported for duty, he was served with charge memo dated 15.02.2001. Thereafter, he was directed to appear before the Medical Board. Accordingly, he appeared before Medical Board on 26.02.2001 and 05.03.2001. The Medical Board had issued him certificate that he was suffered from post Traumatic stiffness Right Shoulder with L5 and S1 'disc prolapse'. Therefore, he was not fit for the post of Conductor. Based on the said medical report, the first



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respondent issued notice and proposed to discharge him under medical invalidation. Though the petitioner submitted detailed explanation, it was not considered and he was discharged from service on 24.05.2001. Therefore, the petitioner approached this Court challenging the same in WP.No.23584 of 2010. This Court by order dated 10.11.2020, directed the respondents to reinstate the petitioner with continuity of service, but without backwages. Accordingly, he was reinstated into service on 02.06.2011 and he was given alternative employment. Due to attainment of his age of superannuation, he retired from service on 30.06.2018. He was settled with all pension and other terminal benefits. However, while calculating his pension, the entire service was not taken into consideration for calculating pension.

4. When this Court specifically directed the second respondent to reinstate the petitioner with continuity of service, but without backwages, the entire service of the petitioner has to be taken into account for calculating pension benefits. Rule 2(P)(iii) of Tamilnadu State Transport Employees says about the actual service. Rule 2(P)(iii) is extracted below:



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"In respect of all other employees, the date of regular employment or becoming the member of the Employee's Provident Fund in the STU will be reckoned for the calculation of pensionable service.

5. Therefore, the petitioner is entitled to get pension under Tamilnadu State Transport Corporation Employees' Pension Scheme. Rule 13 and 14 of the Tamilnadu State Transport Corporation Employees' Pension Fund Rules speaks about the determination of eligible service. The same are extracted hereunder:

13. DETERMINATION OF ELIGIBLE SERVICE

The eligible service shall be determined as follows:

a) In the case of a "New Entrant" entering into service on or after 1.9.1998 the "actual service" shall be treated as eligible service. The total actual service shall be rounded off to the nearest year. The fraction of service for six months or more shall be treated as one year the service less than six months be ignored.

b) In the case of the "existing member" as on 01.09.1998 the aggregate of actual service as indicated para 2 (p) shall be treated as eligible service.



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c) If there is any non-contributory period during the service, it shall not be counted for arriving the actual service.

14. DETERMINATION OF PENSIONABLE SERVICE

a) The Pensionable service of the member shall be determined with reference to the contributions received or are receivable on his behalf in the Employees' Pension Fund subject to the conditions stated in para 13. The pensionable service shall be restricted to 30 years for the purpose of calculation of pensionary benefits.

6. Therefore, the petitioner is entitled to get pension benefits for the entire period of service. As such, the petitioner had submitted representation and the same was not considered so far.

7. In view of the above, the respondents are directed to revise the petitioner's pension from the date of his retirement by taking note of his entire service and disburse the arrears within a period of twelve weeks



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from the date of receipt of copy of this order.

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8. With the above direction, this writ petition is allowed. There shall be no order as to costs.

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Internet: Yes

Index: Yes/No

Speaking/Non-speaking order
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To

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G.K.ILANTHIRAIYAN, J.

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