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W.P.Nos.5108 & 5109 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.02.2024

CORAM:

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

W.P.Nos.5108 & 5109 of 2024 and
WMP.No.5622 of 2024

WP.No.5108 of 2024

R.G.Subramaniji

....Petitioner

Versus

M/s. State Express Transport Corporation,
Rep. by its Managing Director,
No.2, 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 respondent to settle the arrear amount to the petitioner within a time frame fixed by this Court by considering the representation dated 20.01.2024 with interest.

For Petitioner : Mr.R.Prabhakaran

For Respondent : Mr.L.S.M.Hasan Fizal,
Additional Government Pleader

WP.No.5109 of 2024

R.G.Subramaniji

....Petitioner

Versus

M/s. State Express Transport Corporation,
Rep. by its Managing Director,
No.2, Pallavan Salai,
Chennai 600 002

. . . Respondents



W.P.Nos.5108 & 5109 of 2024

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of mandamus directing the respondent to forthwith grant regular promotion notionally to the petitioner as traffic manager with consequential benefits viz. Earned leave, Bonus, medical leave encashment.

For Petitioner : Mr.R.Prabhakaran

For Respondent : Mr.L.S.M.Hasan Fizal,
Additional Government Pleader

COMMON ORDER

This writ petition in WP.No.5108 of 2024 has been filed for direction to settle the arrear amount to the petitioner. The writ petition in WP.No.5109 of 2023 has been filed for direction to the respondent to give notional promotion as Traffic Manager with consequential benefits i.e. earned leave, bonus, medical leave encashment.

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

3. The petitioner had joined as Conductor on 11.07.1979 in the respondent Corporation. Thereafter, his service was regularised on 19.10.1980. While being so, he was served with charge memo alleging that he had been in money lending activity. In pursuant to the charge



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memo, the petitioner was dismissed from service. Therefore, the petitioner raised industrial dispute in ID.No.30 of 1999 before the Labour Court, Cuddalore. The Labour Court by award dated 24.02.2004, directed the respondent Corporation to reinstate the petitioner into service with 50% backwages with continuity of service. Aggrieved by the same, the respondent preferred writ petition before this Court in WP.No.34274 of 2004 and this Court dismissed the writ petition by an order dated 08.11.2013. Thereafter, the petitioner was reinstated into service on 20.11.2014 with continuity of service and 50% of backwages along with other attendant benefits. Thereafter, the petitioner was retired from service as on 31.01.2015. However, the petitioner was not paid monthly pension and as such, he was constrained to approach this Court in WP.No.27894 of 2015. This Court by order dated 04.09.2015 directed the respondent to consider the case of the petitioner within a period of six weeks. Once again, the petitioner filed writ petition before this Court in WP.No.5357 of 2021 for direction to the respondent Corporation to sanction pension from February 2015 and consequential arrears with 6% interest. This Court by order dated 08.03.2021, directed to initiate



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contempt proceedings as against the respondents for disobeying the order passed by this Court in WP.No.27894 of 2015. Therefore, the petitioner issued contempt notice to the respondents. Only thereafter, the respondent had released a sum of Rs.6,38,703/- towards his pension arrears and his pension was fixed at Rs.11,197/- per month. But the respondent without calculating his continuity of service, fixed pension and as such, the petitioner submitted representation to settle the pension arrears by calculating the entire period of service.

4. In view the above, the writ petition in WP.No.5108 of 2024 is disposed of with direction to the respondent to calculate the petitioner's pension as per the award passed by the Labour Court in ID.No.30 of 1999 by order dated 24.02.2004 and disburse the arrears of pension with applicable interest within a period of twelve weeks from the date of receipt of copy of this order.

5. Insofar as the writ petition in WP.No.5109 of 2024, after award passed by the Labour Court, the respondent paid a sum of



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Rs.10,77,031/- on several dates after his retirement as terminal benefits.

Thereafter, the petitioner filed claim petition in CP.No.21 of 2019 and the same was also allowed in favour of the petitioner by an order dated 18.06.2020. As per the calculation of this Court, the award was computed to Rs.24,76,250/- and directed the respondent to pay within a period of three months after deducting the deposited amount. Aggrieved by the same, the respondent preferred writ petition before this Court in WP.No.20109 of 2021 and this court granted interim stay on condition to deposit a sum of Rs.15,00,000/-to the credit of CP.No.21 of 2019. This Court by the final order dated 12.04.2023, remanded the claim petition before the I Additional Labour Court for limited purpose to furnish calculation memo as to on what basis the claim amount of Rs.24,76,250/- was ordered. This Court by order dated 02.06.2023 concluded that the petitioner is entitled to an amount of Rs.20,16,230/-. In order to withdraw the same, the petitioner filed petition and it is pending. Thereafter, the petitioner sent another representation on 17.05.2016 seeking promotion to the higher post. It was not considered and as such, the petitioner was constrained to file writ petition before this Court in WP.No.9908 of 2016.



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However, the respondent replied that promotion was not given to any employee from the date of the petitioner's employment till the date of his retirement. Therefore, he is not entitled for any promotion.

6. In view of the above,, the petitioner is not entitled for any promotion to any higher post during his employment. Hence, the request made by the petitioner cannot be considered. As such, the writ petition in WP.No.5109 of 2024 is devoid of merits and liable to be dismissed. Accordingly, the writ petition in WP.No.5109 of 2024 is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

29.02.2024

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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To
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Managing Director,
M/s. State Express Transport Corporation,
No.2, Pallavan Salai,
Chennai 600 002



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G.K.ILANTHIRAIYAN, J.

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