



W.P.No.5154 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.02.2024

CORAM:

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

W.P.No.5154 of 2024

A.Mohammed Tajudeen

... Petitioner

Vs.

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

2.M/s.Tamil Nadu State Transport Corporation
Employees' Pension Fund Trust,
Rep. By its Administrator,
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 certiorarified mandamus calling for the records of the 1st respondent in Lr.No.208378/L9/SM/SETC/ 2020 dated 18.10.2023 and Lr.No.209787/ HR5/ SETC/2023 dated 30.09.2023 and quash the same and consequently direct the respondents to revise the pension, Gratuity, Commutation and Leave salary by taking the



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petitioner's entire service from 01.09.1991 to 20.04.2020 in view of undertaking given by 1st respondent in the appointment order of the petitioner in Order No.064991/ மவ5/அவிபாக தநா/ 2008 dated 31.10.2008 and pay the consequential benefits with 6 percent interest to the petitioner herein.

For Petitioner : Mr.D.Soundar Raj

For Respondents

For R1 : Mr.L.S.M.Hasan Fizal,
Additional Government Pleader

For R2 : Mr.C.S.K.Sathish

ORDER

This writ petition is filed challenging the order dated 30.09.2023 passed by the first respondent thereby rejected the request made by the petitioner seeking 50% backwages.

2. The petitioner had joined as Non ITI Helper Trainee on 15.08.1987 for the period of three years. Thereafter, his service was not regularised even after completion of eight years. Therefore, the petitioner approached this Court in WP.No.2817 of 1993 for regularisation of his



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service along with other petitioners. This Court allowed the writ petition filed by the petitioner and other batch of writ petitions by an order dated 27.07.1999. Further, from the month of April 1995, the petitioner proceeded on leave. However, his leave was not accepted and treated as absence from duty and dismissed him from service by an order dated 20.01.2001. The petitioner raised dispute in ID.No.9 of 2002 before the Labour Court, Chennai. By an order dated 23.11.2007, the Labour Court directed the respondents to reinstate the petitioner into service with continuity of service and with all other attendant benefits with 50% of backwages. Accordingly, the petitioner was reinstated into service on 31.10.2008 with effect from 1991 without backwages in the scale of pay of Rs.540-10-680 vide settlement arrived under Section 12 (3) of Industrial Disputes Act dated 28.08.1986. Thereafter, the petitioner retired from service on 20.04.2020. However, his service was taken into account only from 31.10.2008 for calculation of gratuity, leave salary, pension and commutation without calculating the service from 1991 to 30.09.2008. Therefore, the petitioner submitted representation and it was not considered. Once again, the petitioner approached this Court in



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WP.No.8478 of 2023 and this Court directed to consider the representation submitted by the petitioner. After filing contempt petition, the respondents submitted that already the petitioner had foregone 50% backwages and passed order dated 30.09.2023 thereby denied 50% of backwages.

3. Hence, this Court finds no infirmity or illegality in the impugned order passed by the first respondent. However, the petitioner is entitled for pensionary benefits, gratuity, commutation and leave salary for his entire period of service from 1991 till the date of retirement i.e. 30.04.2020 on condition that the petitioner shall deposit his provident fund contribution with interest at the rate of 12% per annum.

4. In view of the above, the respondents are directed to consider the petitioner's entire period of service from 1991 to 30.04.2020 for all the above benefits on condition that the petitioner shall deposit the provident fund contribution with interest at the rate of 12% per annum within a period of two weeks from the date of receipt of copy of this



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order. Thereafter, the respondents are directed to disburse all the above benefits with interest at the rate of 6% per annum within a period of twelve weeks thereafter.

5. With the above directions, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. 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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G.K.ILANTHIRAIYAN, J.

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To

1.Managing Director,

M/s.State Express Transport Corporation,

No.2, Pallavan Salai,

Chennai 600 002

2.Administrator,

M/s.Tamil Nadu State Transport Corporation

Employees' Pension Fund Trust,

No.2, Pallavan Salai,

Chennai 600 002

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