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W.P.No.4951 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM:

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

W.P.No.4951 of 2024

G.Jayachandriya

.... Petitioner

Vs

1. The Managing Director,
Metropolitan Magistrate Corporation (Chennai) Ltd.,
Pallavan Illam, Anna Salai,
Chennai – 600 002.

2. The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Pallavansalai, Chennai – 600 002.

.... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to revise the pension of the petitioner by notionally fixing correct basic pay on the date retirement and taking note of his entire service for calculating pension and to return Rs.86,400/- collected towards un implemented punishment amount.

For Petitioner : Mr.S.T.Varadarajalu

For R1 : Mr.A.Vinothraj
Standing Counsel

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



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ORDER

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This Writ Petition has been filed for a direction directing the respondent to revise the pension of the petitioner by notionally fixing the correct basic pay on the date of retirement and taking note of his entire service for calculating pension and also to return Rs.86,400/- collected towards unimplemented punishment amount.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was appointed as Conductor on 27.08.1981 in the first respondent Management. After completion of twenty six years of his service, he was dismissed from service. Therefore, the petitioner raised an Industrial Dispute in ID No.358 of 2009 before the Labour Court, Chennai. The Labour Court, Chennai, by an order dated 31.01.2012, directed the Management to reinstate the petitioner with continuity of service with 50% of back wages and other allowances. It was challenged before this Court in W.P.No.17252 of 2012 by the Management. Pending Writ Petition, the petitioner attained the age of superannuation on 31.05.2017. The petitioner



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also expressed his willingness to forego 50% of back wages from the date of dismissal to the date of retirement.

4. This Court, by an order dated 17.12.2021, passed an order, thereby the first respondent was directed to pay all attendant benefits to the petitioner by taking into consideration the services from the date of dismissal till the date of retirement as continuity of service and settle pension and other terminal benefits, based on notional pay fixation within a period of four months from the date of receipt of a copy of the order. Accordingly, the first respondent, by an order dated 29.08.2022, considered his entire service to pay all benefits as directed by this Court. Insofar as the pensionary benefits is concerned, the entire period of service of the petitioner was not taken into account and only the period of seventeen years was taken into consideration for fixing pension. It is relevant to extract the order passed by this Court in W.P.17252 of 2012, dated 07.12.2021, which reads as follows :

“7. Accordingly, it is ordered as follows :-

(i) The petitioner Corporation is directed to pay all attendant benefits by taking into continuous service of the petitioner from the date of dismissal till the date of retirement and to settle the pension and other terminal benefits based on notional pay fixation, without any interest, within a period of four months from the date of receipt of a copy of this order.



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(ii) It is clear that, the employer can deduct the amount towards the contribution of PF amount and pay the remaining PF amount to the first respondent.

(iii) The petitioner is at liberty to file application before the Labour Court to withdraw the deposited amount by them towards back wages, as per the order of this Court dated 22.11.2012.”

Therefore, the petitioner is entitled for pension and other terminal benefits for the entire period of his service.

5. In view of the above, the first respondent is directed to revise the petitioner's pension by taking account his entire service and to fix the correct wages payable to the petitioner as per the order dated 30.05.2019 passed by this Court in W.P.No.11502 of 2022 and disburse the entire benefits to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. Insofar as the refund of Rs.86,400/- is concerned, the petitioner is at liberty to submit a fresh representation before the first respondent and on receipt of the same, the first respondent is directed to consider the same and pass orders on merits and in accordance with law, within a period of eight weeks, thereafter.



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6. With the above direction, this Writ Petition stands disposed of.

No costs.

28.02.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

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To

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G.K.ILANTHIRAIYAN. J,

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