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W.P.No.5114 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.5114 of 2024

M.Sathishkumar

... Petitioner

Vs.

The Management,
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Illam, Anna Salai,
Chennai 600 002

... Respondent

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of Mandamus directing the respondent to revise the salary of the petitioner from the date of reinstatement given on 05.11.2022, by taking note of increment, intervening settlement benefits and periodical review benefits for the non employment period from 24.11.2008 to 05.11.2022.

For Petitioner : Mr.S.T.Varadarajalu

For Respondent : Mr.A.Vinothraj,



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Standing Counsel

ORDER

This writ petition is filed for direction to the respondent to revise the salary of the petitioner from the date of reinstatement dated 05.11.2022.

2. The petitioner had joined in the service of the respondent Corporation as Conductor on 30.11.1992. While being so, he was terminated from service on 24.11.2008. While common dispute was pending before the Joint Commissioner of Labour, therefore as per Section 33(2)(b) of the Industrial Disputes Act, 1947, the respondent should have sought for approval for the petitioner's dismissal from the Joint Commissioner of Labour. However, the respondent did not file any petition for approval of his dismissal order. Hence, it is inoperative and ineffective. In view of the same, the petitioner is entitled for reinstatement with backwages and continuity of service. Therefore, the petitioner filed computation petition in CP.No.187 of 2018 claiming backwages from 2008 December to 2018 June before the Labour Court. The Labour Court by order dated 03.11.2020 allowed his petition and



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directed the respondent to pay a sum of Rs.11,60,818/-. So far the respondent did not comply the order and as such, the petitioner filed execution petition in EP.No.7 of 2021 before the Execution Court. The respondent agreed to give employment to the petitioner with continuity of service with all other attendant benefits without backwages. Accordingly, the petitioner was reinstated into service on 05.11.2022. However, the respondent did not fix correct wage for the petitioner. Instead the petitioner's co-employee is getting Rs.50,500/- as base salary, whereas the petitioner's wage is fixed only at Rs.27,200/-. Though the petitioner agreed to forego backwages as per the settlement entered between the respondent and the petitioner, he was not paid correct salary by calculating his continuity of service.

3. Considering the above, the respondent is directed to revise the salary of the petitioner from the date of his reinstatement into service by taking note of increment, intervening settlement benefits and periodical review benefits for the non employment period from 24.11.2008 to 05.11.2022 and disburse the same within a period of twelve weeks from the date of receipt of copy of this order.



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4. With the above direction, this writ petition is disposed of.

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

The Management,
Metropolitan Transport Corporation
(Chennai) Ltd.,
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G.K.ILANTHIRAIYAN, J.



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