



WEB COPY



W.P.No.11502 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2024

CORAM:

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

W.P.No.11502 of 2022

S.Mohammed Nazeerudin

...Petitioner

-Vs-

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

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

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to revise the petitioner's pension taking note of his entire service and fixing correct wages payable to him as per Lok Adalath Order dated 30.05.2019 passed in E.P.No.109 of 2015 in C.P.No.324 of 2011.



W.P.No.11502 of 2022

For Petitioner : Mr.S.T.Varadarajulu

For Respondents : Mr.R.Balaji
Standing Counsel

ORDER

The writ petition has been filed for direction to direct the respondents to revise the petitioner's pension taking note of his entire service as per Lok Adalath Order dated 30.05.2019 passed in E.P.No.109 of 2015 in C.P.No.324 of 2011.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The petitioner had joined in the service of the respondents on 08.02.1984 as conductor. Due to illness, he had taken leave from 18.09.2007. After recovery, he reported for duty with medical certificate and he was not given employment and he was served with show cause notice dated 14.03.2008. Thereafter, he was dismissed from service by an order dated 17.06.2008. It was sent for approval before the Joint Commissioner of Labour as contemplated under Section 33(2)(B) of the Industrial Tribunal Act. It was rejected by an order dated 14.08.2013,



W.P.No.11502 of 2022

since the order of dismissal is inoperative and ineffective. Therefore, the petitioner is entitled for reinstatement with back wages and continuity of service. It fact, the said rejection order was challenged before this Court in W.P.No.25239 of 2015.

4. In the mean while, the petitioner also filed computation petition in C.P.No.324 of 2011 and it was ordered by an order dated 25.05.2015, thereby the Labour Court computed the money value to the tune of Rs.5,89,573.91. It was not complied with as such, the petitioner was constrained to file execution petition in E.P.No.109 of 2015. The respondents also challenged the order passed in C.P.No.324 of 2011 before this Court in W.P.No.22520 of 2017.

5. While pending the both writ petitions, the petitioner agreed to fore go backwages for the non employment period and as such the mater was referred to mediation. Before the mediation, both the parties agreed and entered into settlement agreement dated 01.10.2020. As per the agreement, the petitioner is entitled for pension and other service benefits for his entire service period. However, the petitioner is liable to



W.P.No.11502 of 2022

pay employer's contribution of P.F. amount to the P.F. Trust for the non employment period without interest. In the mean time, the petitioner had attained his age of superannuation on 31.05.2017.

6. In pursuant to the settlement agreement, the first respondent passed order dated 01.10.2020, thereby granted pension and other benefits to the petitioner. Though the petitioner had nearly 33 years of service, his entire period of service has not been taken into account while calculating pension. Only 18 years of his service has been taken into account for pension. Therefore, the petitioner submitted representation to rectify the anomaly and to revise his pension.

7. Considering the above facts and circumstances, the first respondent is directed to revise the petitioner's pension taken into account of his entire service and to fix the correct wages payable to the petitioner as per the order dated 30.05.2019 passed in E.P.No.109 of 2015 in C.P.No.324 of 2011, within a period of twelve (12) weeks from the date of receipt of a copy of this Order.



W.P.No.11502 of 2022

WEB COPY 8. With the above directions, the Writ Petition stands allowed.

There shall be no orders as to costs.

02.01.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts

To

1. The Managing Director,
Metropolitan Transport
Corporation (Chennai) Ltd.,
Anna Salai, Pallavan Illam,
Chennai – 600 002.
2. The Administrator,
Tamil Nadu State Transport Corporation,
Employees Pension Fund,
Pallavan Salai,
Chennai – 600 002.



WEB COPY



W.P.No.11502 of 2022

G.K.ILANTHIRAIYAN. J,

rts

W.P.No.11502 of 2022

02.01.2024