



W.P.No.12244 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

CORAM

**THE HONOURABLE Ms.JUSTICE R.N.MANJULA**

W.P. No.12244 of 2021

P.Arumugam

... Petitioner

/vs/

1. Tamilnadu State Transport Corporation (Salem) Ltd.,  
Rep. by its Managing Director,  
No.12, Ramakrishna Road,  
Salem – 636 007.

2. The General Manager,  
Tamilnadu State Transport Corporation (Salem) Ltd.,  
Dharmapuri Region,  
Bharathipuram,  
Salem Road,  
Dharmapuri – 5.

3. Tamilnadu State Transport Corporation  
Employees Pension Fund Trust,  
Rep. by its Administrator,  
Thiruvallurvar Illam,  
Pallavan Salai,  
Chennai – 600 002.

... Respondents



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Writ Petitions are filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct respondents to pay the petitioner full pension to the petitioner entire service of 31 years, by counting the petitioner entire service from the date of the petitioner appointment to the date of the petitioner recruitment, including the period of non-employment, based on and as per the Award dated 28.09.1995 in ID No.1145 of 1993 passed by the Labour Court, Vellore and as confirmed and modified by this Court by an order dated 27.06.2003 in W.P.No.5242 of 1996, from the date of the petitioner retirement, with arrears and other consequential benefits; to pay the petitioner the earned leave salary for the earned leave which he has surrendered during his service and to refund the deposit amount which he has deposited at the time of his appointment, together with interest at the rate of 12% per annum and within a specified time as fixed by this Court.

For Petitioner ... Mr.V.Ajay Khose

For Respondents ... Mr.R.Babu  
Standing Counsel for TNSTC

### **ORDER**

This Writ Petition has been filed seeking a writ of mandamus directing respondents to pay full pension to the petitioner for his entire service of 31 years by counting the petitioner's service from the date of the petitioner's appointment to the date of the petitioner recruitment, including



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the period of non-employment and to refund the deposit amount which he had deposited at the time of his appointment, together with interest at the rate of 12% per annum.

2. Mr.V.Ajay Khose, the learned counsel for the petitioner, submitted that the petitioner who was employed as a Conductor with the first respondent, later got dismissed from service; challenging the order of dismissal, the petitioner had filed an Industrial Dispute Petition in I.D.No.1145 of 1993; the said petition has been allowed and an award has been passed by setting aside the order of dismissal and directing the respondent therein to reinstate the petitioner without back wages but with continuity of services; in the appeal filed by the respondent corporation challenging the above award of the Labour Court, an order was passed by confirming the reinstatement without back wages along with cut in increments for a period of 10 years; the petitioner retired from service on 30.06.2011; the grievance of the petitioner is that he was given with the retirement benefits only for a period of 23 years of service and not for 30 years of service from the date of his appointment; the petitioner claimed



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gratuity for whole of his service and the Controlling Authority has also issued proceedings by allowing the claim of the petitioner vide order dated 11.12.2018; since the petitioner's retirement benefits were not calculated for his entire service, the present writ petition has been filed.

3. Mr.R.Babu, the learned Standing Counsel for the respondents, submitted that the petitioner was given with the punishment of cut in increment for 10 years and hence his services has been calculated accordingly and the retirement benefits have been settled.

4. The order passed in the writ petition in W.P.No.5242 of 1996 filed by the respondents challenging the award passed in I.D.No.1145/1993 has been dismissed with a slight modification as stated below:

*“ 10. In the result, the ends of justice will be met by altering the punishment into one of reinstatement without back wages and also cut in the increments for a period of 10 years. The amount so recoverable will be adjusted against future payments to the employee.*

*11. Subject to the above modification, the writ petition is dismissed. No costs. Consequently, W.M.P.No.8270 of 1996 is closed.”*



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4.1 The order does not state about the continuity of service awarded by the Labour Court and the said relief was not negated at any point of time.

5. The respondents did not deny the fact that the petitioner had joined the service initially on 01.02.1981. Since the petitioner was awarded with the benefit of continuity of service, the total period of service of the petitioner ought to have been calculated from 01.02.1981 to 30.06.2011, which is the date of his superannuation. Unfortunately the order of the learned single Judge dated 27.06.2003 made in W.P.No.5242/1996 has been misunderstood by the respondents and the respondents has not chosen to settle the retirement benefits to the petitioner for the entire completed years of service of the petitioner. In fact the appropriate authority has also taken into consideration of the said fact and passed an order in favour of the petitioner on 14.12.2018 by allowing the gratuity for the entire period of service. But the same was not implemented by the respondent.



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6. Since the petitioner has a reasonable cause for filing this writ petition and he is entitled to get the claim raised by him in view of the orders passed by the Labour Court in I.D.No.1145/1993 and in W.P.5242/1996 along with the order of the Controlling Authority dated 11.12.2018, this writ petition deserved to be allowed.

7. In the result, the writ petition is allowed and the respondents are directed to pay full pension to the petitioner from the date of his appointment to the date of his retirement, including the period of non-employment, in the light of the above observation, within a period of six week from the date of receipt of a copy of this order. No costs.

**24.01.2024**

Index: Yes / No  
Speaking order / Non-speaking order  
bkn



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WEB COPY To:

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Tamilnadu State Transport Corporation (Salem) Ltd.,  
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**R.N.MANJULA ,J.**

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