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W.P.No.11475 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2024

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THE HONOURABLE MR.JUSTICE **D. BHARATHA CHAKRAVARTHY**

W.P.No.11475 of 2024

and

WMP.No.12586 of 2024

M.Gunaseelan

... Petitioner

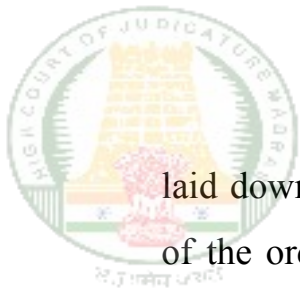
-Vs-

1.M/s.Tamil Nadu State Transport Corporation,
(Villupuram) Ltd.,
Rep by its Managing Director,
No.3/137, Salamedu, Valudhareddy Post,
Villupuram – 605 602.

2.M/s.Tamil Nadu State Transport Corporation,
(Villupuram) Ltd.,
Rep by its Deputy Manager, (புலவர்)
No.3/137, Salamedu,
Valudhareddy Post,
Villupuram – 605 602.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in his proceedings in dated 11.10.2023 and quash the same and consequently direct the respondents to regularize the services of the petitioner from January 1999 on completion of 240 duties in the light of settlement arrived under Section 12(3) of the Industrial Disputes Act, 1947 on 25.09.1986, August-September 1989 and 30.09.1992 and condition



laid down by the 1st respondent in his order dated 29.11.1999 and in the light of the orders passed by this Court in the similar cases in W.A.Nos.2871 and 2872 of 2018 dated 30.09.2019, W.P.No.17831 of 2020 dated 21.06.2021, W.P.No.26204 of 2016 dated 10.02.2022, W.P.No.14145 of 2014 dated 14.06.2022, W.P.(MD)No.2652 of 2008, W.P.(MD)Nos.2069 to 2072 of 2013 dated 30.08.2022 or on completion of 480 days of duty continuously from 1998 to 2000 as per Section 3(1) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1951.

For Petitioner : Mr.D.Soundar Raj

For Respondents : Mr.R.Venkatesa Perumal
Standing Counsel

ORDER

The prayer in the writ petition is recorded above.

2. The grievance of the petitioner is that the petitioner joined service on daily rated basis with effect from 29.11.1999 and he has been continuously working. Thereafter, there is no justification on the part of the respondents to have regularize the service of the petitioner only in the year 2005.

3. According to the petitioner, as per the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, the petitioner ought to have been regularized in service upon completion of 480



days within a period of two years. If that is taken into account, the petitioner should be treated as regular with effect from 2001 itself and therefore accordingly the petitioner's benefits including all the retirement benefits should be re-calculated and paid to the petitioner.

4. The learned counsel for the petitioner would submit that during the period of temporary service, PF amount was deducted and that amount is also not paid.

5. Mr.R.Venkatesa Perumal, learned Standing Counsel takes notice for the respondents and submits that impugned order has rightly been passed.

6. I have considered the said rival submissions made on either side and have perused the materials placed before this Court.

7. The petitioner was regularized in service with effect from 01.09.2005 and the petitioner has accepted the same and did not agitate the same at the relevant period. Now, after retirement, the petitioner cannot claim that he should have been regularized from an earlier point of time. The contentions based on the Tamil Nadu Industrial Establishments (Conferment of Permanent



Status to Workmen) Act, 1981, cannot be accepted for the simple fact that in order to take the said benefit, the petitioner ought to have approached the Inspector of Labour, under Section 3 of the said Act at the relevant point of time. The Inspector of Labour was bound to check whether the petitioner has put in 480 days of service within a period of two years and thereafter pass an Award.

8. In the absence of such an exercise being undertaken by the petitioner and having accepted the regularization in the year 2005 and worked all along and retired from service, now, belatedly the petitioner cannot be permitted to take up the issue. The contentions of the learned counsel for the petitioner in that regard stands rejected.

9. However, while the petitioner's other benefits need not be calculated from the year 1997, if the PF amount, if any, is recovered from the petitioner even as a daily wage worker or on a temporary basis, the said amount if any due has to be paid to the petitioner.

10. The learned counsel for the petitioner would also submit that so far none of the terminal benefits has been settled to the petitioner.



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11. The learned counsel for the petitioner would submit that the amounts if any due to the petitioner, will be settled within such reasonable time as may be granted by this Court. Both side learned counsel would also bring to the notice of the Court that this Court has been ordering 6% interest.

12. In view thereof, this Writ Petition is disposed of on the following terms:-

(i)The impugned order dated 11.10.2023, is upheld and the petitioner's claim is that he should be regularized in service within 480 days of initial entry into service from the year 1999 is negatived.

(ii)However, even as daily wage employee or casual/temporary employee, if any PF amount is recovered from the petitioner then the same has to be duly calculated and paid to the petitioner as per the rules.

(iii)The respondents shall settle all the pending retirement benefits to which the petitioner will be eligible as per the Rules within a period of 12 weeks from the date of receipt of a copy of this order along with interest at the rate of 6% p.a., from the date on which the amount become due from the date of disbursement.



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13. The respondents shall undertake the exercise of applying their mind and verify whether any further PF amount is due to the petitioner and pass an order to that effect and if any amount is payable, pay the same within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

26.04.2024

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

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