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W.P.No.8520 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.8520 of 2014

P.Kannan

... Petitioner

Vs.

The General Manager,
Tamil Nadu State Transport Corporation,
No.3/137, Salamedu,
Vazhudhareti Post,
Villupuram District – 605 602.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to 4Ka.No.44/17849/U.Ni.8/TNSTC(V.Ko/2013) dated 31.07.2013 on the file of the respondent herein and quash the same as illegal, incompetent and ultravires and consequently direct the respondent to revise the petitioner salary starting from 1998.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mr.M.Aswin

ORDER

The petitioner herein was appointed as 'Conductor' in the respondent Corporation on 10.10.1991 with CR.No.2616 and while working as such, the petitioner suffered punishment on two occasions under orders



dated 19.02.1996 and 05.03.1996, imposing the punishment of “postponement of increments for a period of one year with cumulative effect” and punishment of “pay reduction from Rs.1,830/- to Rs.1,710/- for three years with postponement of future increments”. On appeal, both the punishments were modified to that of punishment of “increments without cumulative effect and reduction of pay from Rs.1,830/- to Rs.1,710/- and on restoration the period of pay reduction will not operate to postpone the future increments”. Thereafter, the petitioner retired from service on attaining the age of superannuation on 31.08.2013. The dispute in the present writ petition is with regard to review of his service in terms of the standing orders.

2. According to petitioner, he is entitled for first review on completion of 6 years and second review on completion of 8 years and third review on completion of 10 years of service. According to the petitioner, he is entitled for his first review in the year 1998 and second review in the year 2005 and when the benefit of said review was not extended to the petitioners, he made a representation to the respondents and the same was rejected by the respondents by passing the impugned orders on the ground that the petitioner has suffered two punishments while he was in service and therefore, the said service during which the punishment was in operation cannot be taken into



consideration as qualifying period of service for the purpose of review for advancement from one scale to another scale in terms of the Standing Order No.61.

3. This Court, after having taken note of the facts of the case, passed a docket order dated 15.04.2024 as under:-

“Based on two charge memos in the year 1995, the petitioner was suspended and after due enquiry, the following orders were passed:

i) Punishment of Postponement of increment for one year with cumulative effect was passed on 19.02.1996.

ii) Punishment of pay reduction from Rs.1830/- to Rs.1710/- for three was ordered on 05.03.1996.

2. On appeal, the above orders were modified as follows:

i) Postponement of increment for one year without cumulative effect on 03.09.2005.

ii) On restoration the period of pay reduction will not operate to postpone future increments, which was ordered on 20.05.2005.

3. For filing of detailed table indicating the punishments and the currency period details, list the



matter on 23.04.2024.”

In response to the above docket order dated 15.04.2024, the respondents filed a calculation-sheet showing as to how the services of the petitioner was considered and how the punishments that were inflicted on the petitioner were given effect to. A copy of the same is also served on learned counsel for the petitioner.

4. On perusal of the same, there is no serious dispute about the calculation of the period and exclusion of the service during which the two punishments were given effect to and also in excluding the non-qualifying service, when the petitioner was absent from service.

5. In terms of the standing orders, the service rendered by the petitioner during which he was not entitled for award of increments cannot be treated as qualifying service for the purpose of review. So also, the period during which the petitioner was out of service also cannot be taken into consideration. If that period is excluded, then there appears to be a slight irregularity where the review was postponed by the Review Committee by placing reliance on certain instructions, which does not have force of law on the ground that the petitioner has suffered the punishment of reduction of pay.



If any such action is allowed to sustain, the same would amount to punishing the petitioner for the second time, as he was already punished for the misconduct by reduction of pay and consequently, he is also losing the service period during which the reduction of pay was in operation, on the same ground that the petitioner has suffered punishment of reduction of pay, if the consideration of the case of the petitioner for review in terms of the Standing Order 61 is to be postponed, the same would amount to punishing the petitioner for the second time for the same misconduct. The punishment imposed on the petitioner itself cannot be a ground to postpone the review of the case of the petitioner under the Standing Order 61. The respondents filed the working sheet before this Court which shows that the actual date of review for which the petitioner is entitled to was 01.02.2003, but due to the postponement of the same by the Review Committee, the review was confirmed on 01.02.2004 and thereafter, on completion of 8 years of service, second review also granted in favour of the petitioner.

6. In the light of the above, the action of the respondents in postponing the review that was due on 01.02.2003 to 01.02.2004 cannot be said to be in accordance with law. Hence, the respondents are under obligation to extend the benefit of first review to the petitioner on 01.02.2003



and the benefit of second review on completion of 8 years thereafter.

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7. In such circumstances, the impugned order bearing 4க.எண்.44/17849/ஊநி8/தநா.அபேக(விகோ/2013) dated 31.07.2013 is set aside and the respondents are directed to extend the benefit of first review on 01.02.2003 and the benefit of second review on 01.02.2011 and extend all the benefits that would flow from such review to the petitioner as expeditiously as possible at any rate within a period of eight weeks from the date of receipt of a copy of this order.

8. Accordingly, the writ petition is allowed in part. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

12.09.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

The General Manager,
Tamil Nadu State Transport Corporation,
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Vazhudhareti Post,
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