



W.P.No.26782 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.26782 of 2021

A.Ramesh Babu

... Petitioner

/vs/

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

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

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents to pay backwages and other attendant benefits to the petitioner from the date of removal till the date of petitioner's superannuation and pay pension with arrears and other terminal benefits taking into account of petitioner's entire service as per orders this Court dated 03.02.20216 in W.P.No.33497/2015 within a time frame.



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For Petitioners ... Mr.K.Malaikannu

For Respondents ... Mr.Gauthamaraj for R1

Mr.C.S.K.Sathish for R2

ORDER

The petitioner has filed this writ petition seeking a writ of mandamus to direct the respondents to pay back wages and other attendant benefits from the date of removal till the date of his superannuation and pay pension with arrears and other terminal benefits taking into account of petitioner's entire service as per orders this Court dated 03.02.20216 in W.P.No.33497/2015.

2. The petitioner was removed from service on certain alleged misconduct at the conclusion of the disciplinary proceedings initiated against him. However the order of removal from service was not approved by the Special Deputy Commissioner of Labour Department. Aggrieved over that the first respondent has filed Writ Petitions in W.P.Nos.33497 to 33505 of 2015 and in which the following orders has been passed on 03.02.2016:



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“ 18. In the result,

i) W.P.Nos.33497 and 33498 of 2015 are allowed. However, it is held that the punishment of termination from service is grossly disproportionate to the charge against the Workmen and therefore, such order of punishment imposed on the Workmen is set aside and the matter is remanded to the petitioner management for imposing any other minor punishment on the workmen.

ii) W.P.Nos.33499 to 33505 of 2015 are partly allowed and the order passed by the second respondent with regard to the question relating to Section 33(2)(b) of the I.D.Act alone is set aside and the order holding that the domestic enquiry conducted against the Workmen was not fair and proper is upheld. Consequently, the punishment of termination from service is set aside and the matter is remanded to the petitioner management to impose some other minor punishment on the respondent workmen.

Iii) The above direction shall be complied with by the petitioner Management within a period of eight weeks from the date of receipt of a copy of this order.”

3. A review application filed by the first respondent in Rev.Appl.Nos.70 to 78 of 2019 also dismissed with the following observation :

“ 6. The learned counsel for the applicant pleads that considering the financial position of the applicant / Management, the Court may adopt a reasonable approach by giving up their claim for back wages so that the applicant / Management can reinstate the respondent workmen



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in service. However, this Court cannot issue any direction in these review applicants as sought for by the Management. However, it is open to the Management to hold discussions with the respondents or with their counsels.

7. For the above reasons, these review applications are dismissed.”

4. Mr.K.Malaikannu, the learned counsel for the petitioner, submitted that the respondents neither initiated any further action against the petitioner nor imposed any minor punishment as per the direction of the Court in the writ petition filed by the Corporation in W.P.Nos.33497 to 33505/2015 dated 03.02.2016; the petitioner also got retired on superannuation on 31.03.2018; an order has been passed on 05.12.2019 with regard to the terminal benefits of the petitioner on his retirement and it is observed that the period under which he was removed from service should be considered as “continuity of service” without back wages; however the present writ petition has been filed claiming back wages as well.

5. Mr.Gauthamaraj, the learned Standing Counsel for first



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respondent, submitted that the order of this Court does not state anything about the back wages and the back wages have not been paid to the petitioner for the period during which he was under dismissal.

6. The punishment of dismissal was not approved by the approving authority and the writ petition filed by the first respondent challenging the same also got dismissed. As per the direction of the Court in W.P.Nos.33497 to 33505/2015 dated 03.02.2016 filed by the respondent Corporation, no minor punishment has also been imposed on the petitioner. The petitioner has also not challenged the order dated 05.12.2019 passed by the respondent.

7. Now the prayer of the petitioner is to direct the respondent to pay back wages during the period for which the petitioner was removed from service. As on today the petitioner is not imposed with any minor or major punishment. The period under which the petitioner was removed from service was also considered as 'continuity of service' for the purpose of his retirement benefits. Under such circumstances, the respondents shall



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reconsider the petitioner's case on this aspect and pass fresh orders.

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8. Since the petitioner has not given any representation so far, the petitioner is at liberty to give a fresh representation to the respondents and on receipt of the same, the respondents shall consider and pass orders in the context of the earlier order passed in the above writ petition with regard to the possibilities for holding negotiations in respect of claim of back wages, within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition is disposed. No costs.

16.02.2024

Index: Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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R.N.MANJULA ,J.

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