IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N. MALA

W.P.No.4873 of 2017
and WMP.Nos.5097 & 5098 of 2017

P.N.Palanivelu ... Petitioner

Vs.

1. The Managing Trustee
   Tamil Nadu State Transport Corporation,
   Employees Pension Fund Trust,
   Thiruvalluvar Illam,
   No.2, Pallavan Salai,
   Chennai 600 002.

2. The Managing Director,
   Tamil Nadu State Transport Corporation Ltd.,
   (Salem Division)
   12, Ramakrishna Road,
   Salem 636 007. ... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Certiorarified Mandamus to call for the records from the 2nd respondent relating to the order bearing Ka.No.225/Pension-1/TSTC (Salem)/2014 dated 15.10.2014 and quash the same and direct the respondents to pay the commuted value of pension to the petitioner with interest at the rate of 12% per annum with effect from 01.06.2011 till the date of payment and award costs.

For Petitioner : Mr.S.Ayyathurai

For Respondents : Mr. M.Aswin
Standing Counsel

O R D E R

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records from the 2nd respondent relating to the order bearing Ka.No.225/Pension-1/TSTC (Salem)/2014 dated 15.10.2014 and quash the same and direct the respondents to grant commuted value of pension to the petitioner with interest at the rate of 12% per annum with effect from 01.06.2011 till the date of payment and award costs.

2. The case of the petitioner is that he joined the service of the respondent Corporation as a Conductor in June, 1975 and he was diligently discharging his duties. On 31.05.2011, he retired from service on attaining the age of superannuation. However, no retirement benefits were paid to him. Therefore, he sent a letter on 25.06.2011 to the 2nd respondent requesting for settlement of his retirement benefits, but the 2nd respondent did not take any action. Hence he sent a petition on 08.08.2011 to the Labour Officer complaining about the non-settlement of his terminal benefits and about the

non-payment of pension. Thereafter, the petitioner was paid provident fund and monthly pension from 01.05.2012 onwards, but commuted value of pension and gratuity were not paid to him. Again, the petitioner sent a petition to the 1st respondent and the Labour Officer. The 1st respondent by his letter dated 15.01.2013 advised the 2nd respondent management to take steps and the labour officer by his letter dated 25.06.2013 advised the management to settle the petitioner's retirement benefits. But no settlement was made. Therefore, the petitioner filed an application before the Controlling Authority for a direction to the 2nd respondent to settle his gratuity. After hearing both sides, the Controlling Authority passed an order directing the Management to pay gratuity.

3. Though, the petitioner was paid gratuity still there was due of Rs.67,365/- from the Management towards interest on the gratuity amount. After repeated requests for payment of commuted value of pension, the 2nd respondent issued the impugned order dated 15.10.2014 stating that the petitioner's file for commuted value of pension would be forwarded to the 1st respondent only after the petitioner pays a sum of Rs.6,270/- for monetary value of non-implementation of the punishment of stoppage of increment without cumulative effect for one year and seven months. After the receipt of the

impugned order, the petitioner approached the 2nd respondent and represented that after having allowed him to retire and after having sanctioned monthly pension, it was not fair on the part of the management to impose condition for payment of commuted value of pension. Hence this writ petition.

4. The 2nd respondent filed the counter and submitted that a sum of Rs.6,270/- towards non-implementation of punishment imposed on the petitioner on disciplinary grounds was due and payable by the petitioner at the time of his retirement. After adjusting the said amount of Rs.6,270/- against EL salary surrender etc., the 1st respondent requested the 2nd respondent by letter dated 14.09.2015 to pay the pension commutation amount of Rs.1,03,845/- to the petitioner. According to the 2nd respondent the commuted value of pension was paid to the petitioner in 2 installments as follows:-

Sl.No	***Payment Details***	***Eligible Amount***	***Paid Details***
1	Commutation	Rs.1,03,845/-	1. Rs.51,700/- ECS on 04.12.2017
			2. Rs.52,145/- ECS on 02.01.2018
2	Commutation interest	Rs.39,569/-	ECS on 16.08.2018
3	Pension Arrears 06/2011 to 04/2012	Rs.42,827/-	ECS on 29.10.2013

5. According to the respondents, the petitioner's calculation was highly excessive and there were no amounts due to the petitioner. It was also submitted that the petitioner was receiving a sum of Rs.6,165/- towards pension every month. The 2nd respondent therefore prayed for the dismissal of the writ petition.

6. Heard both sides and perused the materials available on record.

7. The petitioner was denied an amount of Rs.6,270/- on the ground that he suffered the punishment of stoppage of increment without cumulative effect for one year and seven months under earlier proceedings. However, it is not known when such an order was passed by the respondent/authorities and why they had not implemented it, till the petitioner's retirement from service.

8. The counter of the respondent is silent on this aspect. The respondents have also not produced the so called earlier proceedings under which the petitioner was imposed stoppage of increment. No explanation is forthcoming from the learned Standing Counsel for the respondents as to why the order of punishment of stoppage of increment was not implemented and it

was kept pending till the petitioner attained the age of superannuation. The respondent as a model employer ought to be fair. Having allowed the petitioner to retire from service they cannot retain the amount on flimsy grounds. The amount of Rs.6,720/- may be negligible for the respondents but to the petitioner who retired as a Conductor, the amount is huge. Hence the impugned order dated 15.10.2014 is liable to be quashed and the same is quashed. The respondents are directed to reimburse the said amount of Rs.6,720/- along with 6% interest within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above direction and observation, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is also closed.

12.08.2024

dpq
Index : Yes /No
Speaking Order : Yes/No

N. MALA, J.

dpq

To

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