



W.P.(MD).No.4862 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4862 of 2023

and

W.M.P.(MD).No.4547 of 2023

V.Nagaraj

... Petitioner

-VS-

1.The Managing Director,
Tamilnadu State Transport Corporation (Madurai) Ltd.,
Bye-pass Road, Madurai-16.

2. The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Madurai Region, Madurai.

3. The Administrator,
TamilNadu State Transport Corporation Employees Pension,
Fund Trust, Thiruvalluvar Illam, Pallavan Salai,
Chennai-2

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned Pension Payment Order passed by the 2nd respondent in Order No.VRD-1660 dated 15.10.2022, quash the same in so far as denial of Pensionary Benefits for 30 years instead of 26 years along with five review



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benefits for 32 years of service in terms of 12(3) Settlement dated 01.09.2010 with arrears of pay and pension and belated payment interest at the rate of 18% p.a. on the delayed payment of Retirement Benefits from the date of retirement on 31.05.2022 till the date of settlement.

For Petitioner	: Mr.S.Govindan
For Respondent Nos.1 & 2	: Mr.Gladson Michel Rajadurai Standing Counsel
For Respondent No.3	: Mr.S.C.Herold Singh Standing Counsel

ORDER

The instant writ petition has been filed by a retired Driver of respondent Transport Corporation, seeking to quash the pension payment order of the 2nd respondent dated 15.10.2022, wherein the period of his non employment has been excluded from the pensionable service.

2. The petitioner herein was suspended from service on 25.04.2003, and after domestic enquiry he was dismissed from service on 09.03.2004. The petitioner has challenged the said order of dismissal by raising industrial dispute in I.D.No.130 of 2007 before the Labour Court, Madurai. The Labour Court by an order dated 28.01.2010, had set aside the order of dismissal and



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directed the authorities to reinstate the petitioner in service with continuity of service but without backwages.

3. The said award of the Labour Court was challenged by the Transport Corporation in W.P.(MD).No.13546 of 2010. This Court by an order dated 18.01.2017, had dismissed the writ petition. Thereafter, the management has not chosen to file any appeal.

4. After the dismissal of the writ petition, the management and the employee had entered into an agreement on 30.10.2017, wherein the management had agreed to reinstate the petitioner with continuity of service without any monetary benefits.

5. The petitioner had attained superannuation on 31.05.2022. At the time of issuing pension payment order, the eligible service period was shown as twenty six years. Now, the grievance of the writ petitioner is that the non employment period between 09.03.2004 and 22.11.2017 has not been taken into consideration as pensionable service. Hence, the present writ petition has been filed.



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6. According to the learned Counsel appearing for the petitioner, when the order of dismissal has been set aside by the Labour Court and confirmed by the High Court, the said period should have been taken into consideration for pensionable service.

7. Per contra, the learned Standing Counsel appearing for the respondent transport corporation relying upon the agreement entered between the parties on 30.10.2017, had contended that when the petitioner has given up all his benefits arising out of writ court order, the period of non employment cannot be taken into consideration for pensionable service. He further relied upon the order of this Court in W.P.(MD).No.4545 of 2018 dated 07.07.2021 and contended that this petitioner is not entitled to get any monetary benefits.

8. I have carefully considered the submissions made on either side and perused the materials available on record.



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9. At the time of passing of pension payment order, the transport corporation has excluded the period of non-employment between 09.03.2004 & 22.11.2017, on the ground that the petitioner is not entitled to calculate the said period for pensionable service. The award of the Labour Court as well as the High Court in W.P.(MD).No.13546 of 2010 have set aside the order of dismissal of the writ petitioner and confirmed the order of reinstatement with continuity of service. In view of the orders of the Labour Court as well as the order of the High Court, the petitioner has to be reinstated with continuity of service. When continuity of service benefits have been granted to the writ petitioner, even though the period of non-employment cannot be taken into consideration for monetary benefits, it has to be considered for the purpose of calculating the pensionable service. If, the interpretation of the transport corporation is accepted, then it would amount to confirming the order of dismissal.

10. In view of the said facts, the pension payment order issued by the respondents on 15.10.2022, insofar as the calculation of pensionable service is concerned is hereby set aside, the respondents are directed to take into consideration the non-employment period between 09.03.2004 & 22.11.2017



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as pensionable service and issue a revised pension payment order within a period of twelve (12) weeks from the date of receipt of a copy of this order.

11. With the above said observations, this writ petition stands allowed.

No costs. Consequently connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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