



W.P.(MD)No.8266 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2024

CORAM

THE HON'BLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.8266 of 2021

and

W.M.P.(MD)Nos.6249 & 6250 of 2021

M.Balasubramanian

: Petitioner

Vs.

1.The State of Tamil Nadu,

Rep. by its Principal Secretary to Government,
Transport Department,
Secretariat, St. George Fort,
Chennai.

2.The Managing Director,

State Express Transport Corporation TN Limited,
Thiruvalluvar House,
No.2, Pallavan Salai,
Chennai – 600 002.

3.The Assistant Manager,

State Express Transport Corporation TN Limited,
Thiruvalluvar House,
No.2, Pallavan Salai,
Chennai – 600 002.

4.The Branch Manager,

State Express Transport Corporation TN Limited,
Tirunelveli,
Tirunelveli District.

: Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the third respondent vide his proceedings கடித.எண். 796774 / வை.நி/ அவிபோகாதநா/ 2020 dated 26.12.2020 and quash the same as illegal and consequently direct the respondents to give pension and all other retirement and monetary benefits to the petitioner taking into consideration of the 16 years of qualifying services of the petitioner within the period that may be stipulated by this Court.

For Petitioner : Mr.Ajmal Khan
for M/s.Ajmal Associates
For Respondent No.1 : Mr.D.Gandhiraj
Special Government Pleader
For Respondents 2 to 4 : Mr.S.C.Herold Singh
Standing Counsel

ORDER

This Writ Petition has been filed seeking to quash the impugned order passed by the third respondent vide his proceedings கடித.எண்.796774 / வை.நி/ அவிபோகாதநா/ 2020 dated 26.12.2020 and to issue a direction to the respondents to give pension and all other retirement and monetary benefits to the petitioner, taking into consideration the 16 years of qualifying services of the petitioner.



2.The petitioner was appointed as a Driver in the fourth respondent Corporation on 30.07.1991. While so, he was terminated from service on 29.07.1997, following which he raised an industrial dispute in I.D.No.154 of 1998, which came to be dismissed on 26.06.2003, by the jurisdictional Labour Court.

3.Challenging the same, the petitioner filed a writ petition in W.P.(MD)No.1099 of 2010 and the same came to be partly allowed by order dated 13.04.2018. Following which, the petitioner was reinstated back to service on 24.11.2018 and on attaining the age of superannuation, he retired from service on 29.02.2020. However, while disbursing his terminal benefits, the impugned order dated 26.12.2020 came to be passed by the third respondent negating the claim of the petitioner for terminal benefits for the reason that he has not completed 10 years of qualifying service. Challenging the same, this writ petition came to be filed.

4.Learned Counsel for the petitioner drew the attention of this Court to the order passed by this Court in W.P.(MD)No.1099 of 2010 dated 13.04.2018, in which this Court had clarified that the period from 01.02.2010 ie., the date of filing of the aforesaid writ petition till the date of reinstatement of the petitioner in service should be taken into account for the purpose of computing the retirement benefits of the petitioner.



5.Pointing out that the petitioner filed this writ petition on 20.01.1997 and he was reinstated on 24.11.2018 and if the said period is taken into account, automatically the qualifying service would be more than 10 years and on that basis, the learned Counsel for the petitioner pressed for allowing this writ petition.

6.Per contra, learned Standing Counsel appearing for the respondents relying upon the counter affidavit filed by the second respondent submitted that the said exercise cannot be done in view of Rule 13(c) of 'the Tamil Nadu State Transport Corporation Employee's Pension Fund Rules' [hereinafter 'said Rules' for brevity], which mandates that if there is any non-contributory period during the service, the same shall not be counted for arriving the actual service. Making the said submission, learned Standing Counsel submitted that since the petitioner had not made any contribution from the date of his termination ie., 29.07.1997 till his date of reinstatement on 24.11.2018, the same can be considered only as a non-contributory period and hence, the same cannot be counted for arriving his actual service. Accordingly, he pressed for dismissal of this writ petition.

7.Heard the learned Counsel appearing on either side and consciously perused the available materials on record.



8.No doubt, Rule 13(c) of the said Rules mandates that the non-contributory period during service if any could not be counted for arriving the actual service. As rightly pointed out by the learned Standing Counsel for the respondents, the petitioner did not contribute anything from 29.07.1997 ie., his date of termination till 24.11.2018, when he came to be reinstated. However, the scheme of terminal benefits provided by the Respondent Corporation is on the basis of the contribution made by the employee and the employer. In view of the same, this Court is of the considered opinion that in the instant *lis* on hand, this Court in W.P.(MD)No.1099 of 2010 has already passed an order directing the respondent Corporation to consider the period from 01.02.2010 till 24.11.2018, for the purpose of computing the retirement benefits.

9.In view of the said direction made by this Court, as far as the petitioner's case is concerned, this Court hereby directs the respondent Corporation to sanction the terminal benefits to the petitioner by calculating the period from 30.07.1991 to 29.07.1997 and 01.02.2010 to 29.02.2020, as service period for the purpose of computing the retirement benefits. However, it is made clear that during the non-contributory period, whatever the amount which the petitioner ought to have contributed shall be reduced. Accordingly, the impugned order is quashed and it is further made clear that this



order will not bind any other case and it is only a one time measure on the basis of the order passed by this Court in W.P.(MD)No.1099 of 2010 dated 13.04.2018.

10.Accordingly, the writ petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

02.08.2024

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



WEB COPY

To

- 1.The Principal Secretary to Government,
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Secretariat, St. George Fort,
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L.VICTORIA GOWRI, J.

MR

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