



W.P.(MD)No.8394 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.04.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.8394 of 2024

C.Vijayakumar Raj

... Petitioner

Vs.

1.The Chief Managing Director,
Tamil Nadu State Transport Corporation,
Tirunelveli Sector,
Tirunelveli District.

2.The General Manager,
Tamil Nadu Government Transport Corporation,
Tirunelveli Zone, Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to dispose the petitioner's representation dated 17.08.2023 in term of the order of this Hon'ble Court dated 17.06.2004 passed in W.P.No.6659 of 1996 and to direct the respondents to pay the difference of gratuity, PF, Pensionary benefit and all retirement benefits due to till date of realization of the amount and to refix the pension.

For Petitioner : Mr.K.V.Dhanapalan
For M/s.T.Fenn Walter Associates



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ORDER

WEB COPY Heard Mr.K.V.Dhanapalan, for M/s.T.Fenn Walter Associates, learned counsel for the petitioner.

2. The petitioner who retired from service on 30.04.2016 has filed this Writ Petition seeking direction against the respondents to dispose of the petitioner's representation dated 17.08.2023 in terms of the order of this Hon'ble Court dated 17.06.2004 passed in W.P.No.6659 of 1996 and to direct the respondents to pay the difference of gratuity, PF, Pensionary benefit and all retirement benefits due till date of realization of the amount and to refix the pension.

3.Mr.K.V.Dhanapalan, learned counsel for the petitioner submitted that the petitioner has been removed from service on 18.08.1995 in pursuant to the disciplinary action initiated against him. However, the order of dismissal was not approved by the appropriate authority and hence the respondents have challenged the same by preferring a Writ Petition in W.P.No.6659 of 1996 and this Court vide order dated 17.06.2004 has passed the following direction:

“22. With the result, the Writ Petition is partly allowed setting aside part of the order of the Industrial Tribunal, and it is made clear that the employee/second



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respondent will not be entitled to any arrears of salary till the date of the award of the Industrial Tribunal, namely, 18.08.1995. The employee shall be entitled to be reinstated in service with continuity of service, but without any arrears of salary from the date of dismissal to 18.08.1995. The writ petition is ordered subject to the above observations. No costs. Consequently, connected WPMP is closed.”

4. Despite the petitioner has been reinstated into service, he was not given with the benefit of continuity of service as ordered by the Court. The Petitioner retired from service on 30.04.2016. However, his entire service have not been taken into account and the period during which the petitioner was under non employment due to dismissal has been excluded. Now, the petitioner claims that the earlier order of the Court dated 17.06.2004 had given him the benefit of continuity of service and hence the period of non employment ought to have been regularized and treated as continuity of service.

5. The order dated 17.06.2004 does not state that the period of petitioner's out of employment should not be included in his service. On the other hand, the order has been specifically made for reinstatement with continuity of service, but however without any backwages. In such case, the respondents ought to



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have given the benefit of continuity of service including the period during which he was under non employment due to removal and extended the pensionary benefits for the same. Since the petitioner was given retirement cum pensionary benefits, the petitioner has given representation and the same was not considered so far. Hence, the respondents are directed to consider the same and pass orders, in the light of the order passed by the High Court in W.P.No.6659 of 1996 dated 17.06.2004, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition is **disposed of**. No costs.

02.04.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

- 1.The Chief Managing Director,
Tamil Nadu State Transport Corporation,
Tirunelveli Sector,
Tirunelveli District.
- 2.The General Manager,
Tamil Nadu Government Transport Corporation,
Tirunelveli Zone, Tirunelveli District.



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R.N.MANJULA, J

Nsr

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