



W.P.(MD).No.11094 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 21.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.11094 of 2023

R.Ayyadurai

... Petitioner

Vs.

The General Manager,
Tamil Nadu State Transport Corporation
(KMB) Limited,
Karaikudi Region,
Managiri Post, Maruthapathi,
Karaikudi,
Sivagangai District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to treat the petitioner's service as a continuity of service and sanction the petitioner's pension.

For Petitioner	: Mr.K.Gokul
For Respondent	: Mr.K.Jagadeesbalan
	Standing Counsel



W.P.(MD).No.11094 of 2023

ORDER

WEB COPY

The present Writ Petition has been filed by a retired Conductor of the respondent Transport Corporation, seeking a Mandamus to treat his past services as continuity of service and sanction pension and other monetary benefits.

2. A perusal of the records would disclose that the petitioner was appointed as a Conductor on 10.01.1989. Pursuant to certain charges, the petitioner was dismissed from service on 15.11.1997. The petitioner has not chosen to raise any industrial dispute or file a writ petition challenging the order of dismissal.

3. Thereafter, the petitioner has approached the Corporation Management seeking re-appointment him as a Conductor. Based upon a letter given by the writ petitioner, a settlement was reached between the petitioner and the Transport Corporation under Section 18(1) of Industrial Dispute Act, on 09.11.2009 wherein the petitioner and the Management have agreed that the petitioner would be reappointed as a fresh entrant without seeking



W.P.(MD).No.11094 of 2023

WEB COPY

continuity of service. Pursuant to the said settlement, a re-appointment order was issued to the petitioner on 11.11.2009 and he attained superannuation on 30.04.2017.

4. The present writ petition has been filed six years after the date of retirement claiming that the service period between 10.01.1989 and 08.11.2009 should be treated as a continuity of service period.

5. According to the learned counsel appearing for the writ petitioner, though the petitioner was dismissed from service on 15.11.1997, he was reinstated on 09.11.2009 by the Management by way of agreement. Therefore, the period of non-employment as well as the period of past service between 1989 and 1997 shall be treated as pensionable service and monetary benefits shall be released.

6. Per contra, the learned Standing Counsel appearing for the respondent Transport Corporation, relying upon the settlement under Section 18 (1) of the Industrial Disputes Act, and the reappointment order, had contended that the petitioner had agreed for reappointment only as a fresh



W.P.(MD).No.11094 of 2023

WEB COPY

entrant without claiming any continuity of service and therefore, the present writ petition is not maintainable.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

8. The facts captured above will clearly indicate that the petitioner has accepted the order of dismissal on 15.11.1997 and has not chosen to challenge the same before any forum. Out of an agreement reached between the parties under Section 18(1) of the Industrial Disputes Act, the petitioner was appointed as Conductor as a fresh entrant on 11.11.2009. The agreement as well as the reappointment order clearly reveal that the appointment is a fresh appointment without continuity of service. Having accepted the said agreement and the reappointment order and served till 2017, the petitioner cannot now turn around and contend that the past services and the non-employment period should be taken as pensionable service. There are no merits in the writ petition.



W.P.(MD).No.11094 of 2023

9. With the above said observations, this Writ Petition stands dismissed.

There shall be no order as to costs.

21.11.2024

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

To
The General Manager,
Tamil Nadu State Transport Corporation
(KMB) Limited,
Karaikudi Region,
Managiri Post, Maruthapathi,
Karaikudi,
Sivagangai District



WEB COPY



W.P.(MD).No.11094 of 2023

R.VIJAYAKUMAR,J.

ebsi

W.P(MD)No.11094 of 2023

21.11.2024