



W.P.(MD)No.23982 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.23982 of 2022

S.Raju

: Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited, Karaikudi Region.

: Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent Corporation to regularise the period of dismissal from service from 04.02.2011 to 30.06.2016 and consequently, to direct respondents to revise pension and pay monetary benefit based on the representation dated 24.09.2022 preferred by the petitioner within the time frame stipulated by this Court.

For Petitioner : Mr.V.P.Rajan

For Respondents : Mr.K.Jegadeesbalan



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Standing Counsel

ORDER

This writ petition is filed seeking a Writ of Mandamus to direct the respondents to regularise the period of dismissal from service from 04.02.2011 to 30.06.2016 and for a consequential direction to the respondents to revise the pension and pay monetary benefits based on his representation dated 24.09.2022.

2. The learned counsel for the petitioner submitted that the petitioner was removed from the service on 04.02.2011, fixing the responsibility on him for an accident that occurred on 07.02.2010. The petitioner has submitted his explanation denying the charges framed against him. He further submitted that before passing the order of removal from service, the respondent Corporation has to get an approval under Section 33(2)(b) of the Industrial Dispute Act, 1957. The approval sought by the respondent Corporation was rejected by the Competent Authority by order dated 27.12.2012. Against which, the respondent Corporation had filed a writ petition in W.P.(MD) No.2609 of 2014 and this Court, dismissed the same by its order dated 08.04.2019 based on the



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undertaking filed by the petitioner that he will not claim backwages for the period of five years from the date of dismissal (04.02.2011) to the date of superannuation (30.06.2016).

3. The main grievance of the petitioner is that the petitioner has made a representation dated 24.09.2022 before the respondents to regularise the period of dismissal from service from 04.02.2011 to 30.06.2016 and consequently, to revise pension and pay monetary benefit. However, the respondents have not taken any steps to regularise the period of dismissal till date. Since no other option left, the petitioner has come forward with the present writ petition before this Court.

4. The learned Standing Counsel appearing for the Transport Corporation filed a counter-affidavit on behalf of the second respondent on 18.10.2024 wherein it is stated that the petitioner has attained the age of superannuation on 30.06.2016 and that he has rendered pensionable service only for 26 years and all the terminal benefits were settled to the petitioner and the non-qualifying service period is five years. He further submitted that the petitioner has filed an undertaking in W.P.(MD) No. 2609 of 2014 stating that he will not claim backwages from the date of



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dismissal to the date of his retirement and therefore, the period he was not in service could not be taken as a qualifying service for the purpose of payment of pension.

5. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents and perused the material available on record.

6. In the present case, the petitioner was dismissed from service on 04.02.2011 and the application sought for approval by the respondent Corporation had also been rejected by the competent authority. Since the order of dismissal was rejected by the competent authority, the petitioner is entitled to regularisation for the period of dismissal from service from 04.02.2011 to 30.06.2016 and for other consequential benefits.

7. In view of the above, considering the facts and circumstances of the case, the second respondent is directed to regularise the period of dismissal from service from 04.02.2011 to 30.06.2016 and also revise the pension and pay monetary benefits to the petitioner within



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a period of three months from the date of receipt of a copy of this order.

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8.The writ petition stands disposed with the above direction.

No costs.

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Index : Yes / No

Internet : Yes / No

PKN

To

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited, Karaikudi Region.



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J.SATHYA NARAYANA PRASAD, J.

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