



W.P.No.945 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2025

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.945 of 2023

D. Mohan

...Petitioner

Vs

1. Tamilnadu State Transport Corporation,
(Villupuram) Ltd., Rep by its Managing
Director, Vazhuthareddy,
Villupuram – 605 602.
2. The General Manager,
Tamilnadu State Transport Corporation,
(Villupuram) Ltd., Villupuram Region,
Vazhuthareddy, Villupuram – 605 602.
3. The Administrator,
Tamil Nadu State Transport Employees' Pension Fund Trust,
Thiruvalluvar Illam, Pallavan Salai, Chennai – 600 002.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 to treat the period from 03.02.2014 to 28.02.2017 as duty with pay for all purposes as if the petitioner was given alternative job based on the disability acquired to him during petitioner's service as per the Medical board's reports dated 26.11.2015 and 11.09.2015 to grant me pay revision,



W.P.No.945 of 2023

annual increments and other benefits as per the settlement dated 13.04.2015 and 04.01.2018 with all monetary benefits for the above period; to pay the petitioner the difference in terminal benefits, that is, a sum of Rs.10,66,909/- towards arrears of salary ,bonus and performance incentive a sum of Rs.1,72,127/- towards difference in gratuity and a sum of Rs.1,30,717/- towards earned leave salary and the 3rd respondent Trust to pay a sum of Rs.2,88,011/- towards difference in pension arrears and a sum of Rs.3,83,526/- towards difference in commuted value of pension and to pay the petitioner revised pension every month here after, based on the revised last drawn pay to be arrived at as on the date of petitioner's retirement/superannuation, together with interest at the rate of 12% per annum and pass orders.

For Petitioner : Mrs.H.Nandhini
For Respondents 1 and 2 : Mr.M. Aswin
Standing Counsel
For Respondent 3 : Mr.C.S.K.Sathish
Standing Counsel

ORDER

This petition is filed seeking to issue a Writ of Mandamus directing the respondents 1 and 2 to treat the period from 03.02.2014 to 28.02.2017 as duty with pay for all purposes as if the petitioner was given alternative job based on the disability acquired to him during petitioner's service as per the Medical board's reports dated 26.11.2015 and 11.09.2015 to grant me pay revision, annual increments and other benefits

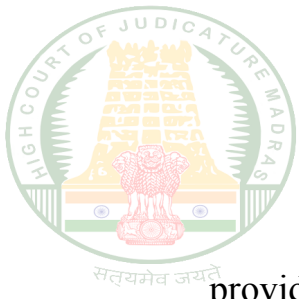


W.P.No.945 of 2023

WEB COPY

as per the settlement dated 13.04.2015 and 04.01.2018 with all monetary benefits for the above period; to pay the petitioner the difference in terminal benefits, that is, a sum of Rs.10,66,909/- towards arrears of salary ,bonus and performance incentive a sum of Rs.1,72,127/- towards difference in gratuity and a sum of Rs.1,30,717/- towards earned leave salary and the 3rd respondent Trust to pay a sum of Rs.2,88,011/- towards difference in pension arrears and a sum of Rs.3,83,526/- towards difference in commuted value of pension and to pay the petitioner revised pension every month here after, based on the revised last drawn pay to be arrived at as on the date of petitioner's retirement/superannuation, together with interest at the rate of 12% per annum and pass orders.

2..The case of the petitioner is that joined as Driver in the Respondent Corporation on 23.02.1986. It is pertinent to note that when the petitioner was working at Koyambedu depot the respondents sent him for a medical eye check up which is a usual practice. After examination the Doctor certified that the petitioner was suffering with defective colour vision in both the eyes. Pursuant to which the petitioner was not permitted to do the work of driver, due to which he made a request to

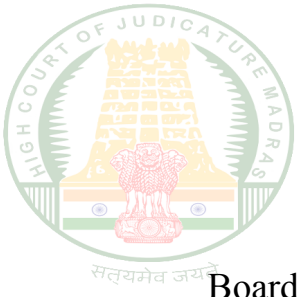


W.P.No.945 of 2023

WEB COPY

provide him an alternative employment. The request of the petitioner was considered and he was allotted with the work of diesel filling. Thereafter, from 17.07.2014 the respondent stopped giving the said work and issued proceedings referring him for Medical Board for further Examination. Likewise the respondent has issued proceedings on 26.11.2014 and 11.02.2015. Hence, the petitioner filed a W.P.No.2507 of 2015 seeking a direction to the respondents to provide him alternative employment w.e.f. 03.02.2014. Pending writ petition the petitioner retired on 28.02.2017 . Hence the W.P.No.2507 of 2015 was dismissed on 11.01.2022 as infructuous and granted liberty to file another petition. However, terminal benefits were settled to the petitioner. The sum and substance of the case is that the respondents based on the actual service i.e till 03.02.2014 has calculated terminal benefits and refused to count the period from 03.02.2014 to 28.02.2017 as qualifying service for the calculation and payment of gratuity and pension and the said period has been totally excluded, which has given rise to this petition.

3. The learned counsel for the petitioner submitted that the action of the Respondents by keeping on referring the petitioner to the Medical



W.P.No.945 of 2023

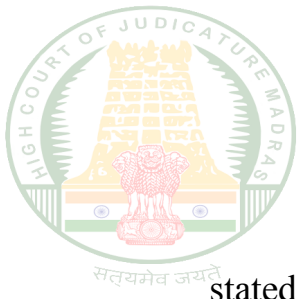
WEB COPY

Board even after he was certified unfit for the post of Driver by the Government Eye Hospital, Egmore, Chennai is illegal. He further submitted that the action of the Respondents by referring the petitioner again and again before the Medical Board and denying alternative employment is against the principles of natural justice. Hence, prays to allow this petition.

4. The learned standing counsel appearing for the second respondent filed a counter wherein it was stated that the entire terminal benefits was settled to the petitioner during the year 2017. He further submitted that at the time of settlement, no objections were raised and no errors or discrepancies were pointed out by the petitioner and after a lapse of 7 years, the petitioner has filed the present writ petition. Hence, prays to dismiss this petition.

5. Heard both sides and perused the materials available on record.

6. On a perusal of records, it is seen that the Medical Board has issued a certificate to the petitioner on 03.03.2014, wherein it has been



W.P.No.945 of 2023

WEB COPY

stated that the petitioner was suffering with 'defective colour-vision' and the petitioner retired on 28.02.2017. The respondent has excluded the said period i.e 03.03.2014 to 28.02.2017 while arriving the terminal benefits.

7. In view of the above facts this Court is of the view that as the petitioner was suffering with 'defective colour-vision' he was unable to do his driving job and the respondents have also taken that fact and provided alternate employment. However, the respondent was not able to give alternate employment continuously, due to administrative reasons. However, the petitioner was ready and willing to take up the alternate employment.

8. For the foregoing reasons, this Court directs the respondents to consider the period 03.03.2014 to 28.02.2017 for arriving terminal benefits and also pay salary for the said period and pass orders within a period of sixteen weeks from the date of receipt of a copy of this order. **It is made clear that only for arriving terminal benefits and for payment of the salary the said period 03.03.2014 to 28.02.2017 will**



W.P.No.945 of 2023

WEB COPY

be taken into account and it will not be considered for any other benefits such as bonus, annual increment etc., as sought in the prayer.

9. With the above observations this writ petition stands disposed of.

No order as to costs.

12.02.2025

Index: Yes/No

Speaking order/Non-speaking order

smn

To.

1. Tamilnadu State Transport Corporation,
(Villupuram) Ltd., Rep by its Managing
Director, Vazhuthareddy,
Villupuram – 605 602.
2. The General Manager,
Tamilnadu State Transport Corporation,
(Villupuram) Ltd., Villupuram Region,
Vazhuthareddy, Villupuram – 605 602.
3. The Administrator,
Tamil Nadu State Transport Employees' Pension Fund Trust,
Thiruvalluvar Illam, Pallavan Salai, Chennai – 600 002.

V.BHAVANI SUBBAROYAN,J.

Smn



WEB COPY



W.P.No.945 of 2023

W.P.No.945 of 2023

12.02.2025