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W.P.No.4193 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.4193 of 2024

D.Asaithambi

... Petitioner

Vs.

- 1.The Tamil Nadu State Transport Corporation
(Salem) Limited,
Rep.by its Managing Director,
No.12, Ramakrishna Road,
Salem-7, Salem District.
- 2.The General Manager,
The Tamil Nadu State Transport Corporation
(Salem) Limited,
No.12, Ramakrishna Road,
Salem-7, Salem District.
- 3.The General Manager,
Tamil Nadu State Transport Corporation
(Salem) Limited,
Dharmapuri Division,
Bharathipuram,
Dharmapuri-5.
- 4.The Assistant Manager,
Bills,
The Tamil Nadu State Transport Corporation
(Salem) Limited,
No.12, Ramakrishna Road,



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Salem-7,
Salem District.

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....Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the fourth respondent dated 02.11.2023 in Letter No.0353/TNSTC (Salem)/2023, which was communicated along with RTI Reply dated 07.12.2023 and quash the same, consequently direct the respondents to provide all pensionary benefits as directed by the Hon'ble Division Bench of this Court vide order dated 16.08.2017 made in W.A.No.761 of 2017 for protecting the livelihood of the petitioner forthwith.

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.K.Raja
Standing Counsel

ORDER

This Writ Petition has been filed challenging the impugned order dated 02.11.2023 passed by the fourth respondent in Letter No.0353/TNSTC (Salem)/2023, which was communicated along with RTI Reply dated 07.12.2023 and for a consequential direction to the respondents to provide all pensionary benefits as directed by the Hon'ble Division Bench of this



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Court vide order dated 16.08.2017 made in W.A.No.761 of 2017 for protecting the livelihood of the petitioner forthwith.

2. The petitioner worked as Conductor in the respondents Corporation and he was further promoted as Junior Assistant. Due to unauthorized absence, he was removed from service on 04.04.1997 by the respondents Corporation, against which, the petitioner filed I.D.No.48 of 2000 and the same was allowed by the Labour Court with a direction to the respondents Corporation to reinstate the petitioner into service and pay the backwages with all service benefits. Against the said award, the respondents Corporation filed a writ petition in W.P.No.17119 of 2003 and the same was allowed. Challenging the same, the petitioner filed W.A.No.761 of 2017 before this Court and the Hon'ble Division Bench of this Court relying on the judgment of the **Chief General Manager, S.B.I., Chennai vs. Central Government Industrial Tribunal-cum-Labour Court, Chennai and another** has held as follows:-

“ 8. Since the Management has taken a plea that they must be afforded an opportunity to establish the charges leveled against the workman in case of remand, taking note of the fact



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that the workman is an octogenarian and that the punishment of dismissal from service is shockingly disproportionate to the gravity of misconduct, viz., unauthorized absence, in order to shorten the life of the litigation and give a quietus to the issue, we are inclined to modify the punishment imposed by the Labour Court and confirmed by the Single Bench.

9. As the workman had attained the age of superannuation on 30.09.2000, the question of putting him back in service pursuant to the award of the Labour Court is not possible. It is no doubt true that that the workman had received the Provident Fund and Gratuity amounts and neither the Management nor the workman is able to state, much less with certainty, as to whether the same were received under protest, even though the onus is on the workman to, at least, make a statement on oath that the amounts were received by him under protest, which, for the reasons best known to him, has not been done in the case on hand. Further, though this Court could mould the relief and award one time compensation, taking note of the age of the workman, it would be in the fitness of things if the workman gets a monthly income to sustain himself during the remaining part of his life. Viewing from that angle, it is ordered that the workman is deemed to have been in service upto the date of his superannuation, viz., 30.09.2000. The raison d'être behind extending the period upto the year 2000, being the year of the



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workman's superannuation is, only for the limited purpose of enabling him to get pensionary benefits on or before 01.09.2023 .

11 We further hold that the amount of Provident Fund and Gratuity already paid shall be retained by the workman and need not be returned by him for the purpose of getting pensionary benefits. Superadded, since the workman has received all the terminal benefits, the Management need not pay anything more than what has been due to the workman on the date of his dismissal. It is made clear that if any other amount has been paid by the Management under any head, the same, including the employer's contribution of Provident Fund, shall not be recovered from the workman."

3. In view of the above categorical finding given by the Hon'ble Division Bench of this Court as extracted supra and considering the fact that the petitioner has worked for a period of 16 years with the respondents Corporation, the impugned order passed by the fourth respondent denying the pensionary benefits to the petitioner is not sustainable one. Accordingly, the impugned order dated 02.11.2023 passed by the fourth respondent is set aside and the respondents are directed to settle the terminal benefits and other benefits to the petitioner within a period of 12 weeks from the date of receipt of a copy of this order.



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4. Accordingly, this Writ Petition is allowed. There shall be no order as to costs.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

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M.DHANDAPANI, J.

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