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W.P No. 20572 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2025

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THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P No. 20572 of 2023

S. Amulnathan

..Petitioner

Vs

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd., Cuddalore Zone,
Villupuram.

..Respondent

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order in C.P.No. 15 of 2022 dated 29.03.2023 on the file of Labour Court, Cuddalore and direct the respondent to pay the difference in payment of pension by taking the petitioner's service as 31 years instead of 21 years.

For Petitioner : Mr. R.Subramanian

For Respondent : Mr. M.Aswin, Standing Counsel



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ORDER

The captioned writ petition has been filed challenging the order dated 29.03.2023 passed by the Labour Court, Cuddalore, in C.P. No. 15 of 2022. By the said order, the Labour Court partly allowed the application filed under Section 33(C)(2) of the Industrial Disputes Act, 1947, and held that the petitioner was entitled to a sum of Rs. 2.5 lakhs towards arrears of back wages. However, his claim seeking determination of arrears of pension was rejected.

2. The petitioner, while working as a conductor in the respondent-Corporation, was terminated from service on 04.01.2007. He raised an industrial dispute challenging the dismissal. The Labour Court, by an award dated 11.05.2011, allowed the industrial dispute and directed the respondent-Corporation to reinstate the petitioner with back wages and other attendant benefits, but without continuity of service. Aggrieved by the denial of continuity, the petitioner filed W.P. No. 25252 of 2011. This Court allowed the writ petition and directed the respondent-Corporation to reinstate the petitioner with all consequential benefits, including continuity of service and attendant benefits, except back wages.



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3. Not being fully satisfied, the petitioner preferred W.A. No. 1757 of 2021. The Division Bench, by order dated 15.02.2023, partly allowed the writ appeal and restricted the petitioner's entitlement to back wages to Rs. 2.5 lakhs. The orders of both the learned Single Judge and the Division Bench have attained finality. The Division Bench further observed that the entire period of service shall be taken into account for the purpose of gratuity and terminal benefits, including pension. Pursuant to the said direction, the petitioner received Rs. 2.5 lakhs towards arrears of wages. The grievance of the petitioner is that, while calculating pension, the respondent-Corporation has reckoned only 24 years of service instead of 31 years. Therefore, he filed a claim petition under Section 33(C)(2) before the Labour Court, which rejected his claim, resulting in the present writ petition.

4. Learned counsel for the petitioner submitted that the Division Bench had explicitly directed that the entire service period shall be considered for the purpose of gratuity and terminal benefits such as pension. Accordingly, the period during which he was kept out of service due to dismissal, which was subsequently set aside, must necessarily be included while computing pension.



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Therefore, the order of the Labour Court is legally unsustainable.

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5. Per contra, the learned Standing Counsel for the respondent-Corporation submitted that pension had in fact been computed by reckoning 31 years of service, as opposed to 24 years, as alleged by the petitioner. It was further submitted that if this Court holds that the entire period is required to be taken into account for the purpose of computing pension, the petitioner should be directed to remit his contribution to the Employees' Provident Fund (EPF) for the said period.

6. The submissions of the learned counsel for the parties, as well as the materials placed on record, have been duly considered.

7. The petitioner has produced the gratuity settlement form issued by the respondent-Corporation. A perusal of the said document shows that the petitioner joined service on 05.05.1985 and retired on 31.12.2016. During the intervening period, he remained out of employment from 04.01.2007 to 16.05.2011, owing to dismissal from service, which was later set aside by the Labour Court. The Division Bench has categorically held that the entire period of service shall be considered for the purpose of gratuity and terminal benefits, including pension.



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Consequently, the period during which the petitioner was kept out of service must be treated as qualifying service for calculating pension.

8. In the present case, it is evident that the computation of pension was made without including the aforesaid period of non-employment, thereby acting in contravention of the express directions issued by the Division Bench in the writ appeal.

9. In view of the above, this Court holds that the petitioner is entitled to pensionary benefits computed by reckoning the entire period of service from 05.05.1985 to 31.12.2016. The respondent-Corporation is therefore obligated to revise the petitioner's pension by taking into account the full qualifying service, subject to the petitioner remitting his Provident Fund contribution for the relevant period.

10. Accordingly, the following directions are issued:

- i. The writ petition is allowed. The impugned order dated 29.03.2023 passed by the Labour Court, Cuddalore, in C.P. No. 15 of 2022 is hereby set aside, and consequently the application filed under Section 33(C) (2) of I.D.Act is allowed .
- ii. The respondent-Corporation shall recompute and revise the



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pension payable to the petitioner by taking into account his entire service from 05.05.1985 to 31.12.2016, subject to the petitioner contributing his share towards the Provident Fund.

iii. The petitioner's Provident Fund contribution for the relevant period shall be deducted from the amount payable to him.

iv. The above exercise shall be completed within three (3) months from the date of receipt of a copy of this order.

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Index : Yes/No

Internet : Yes/No

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HEMANT CHANDANGOUDAR, J.

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