



WP(MD)No.8491 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 02.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.8491 of 2021

S.K.Chelliah

... Petitioner

Vs

1.The Secretary,
Transport Department,
Government of Tamil Nadu,
St.George Fort, Chennai.

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Ltd,
Bypass Road,
Madurai – 625 010.

3.The Administrator,
The Tamil Nadu State Transport Corporation
Pension Fund Trust,
Thiruvalluvar Illam,
Pallavansalai, Chennai – 2.

...Respondents

[R-3 is suo motu impleaded vide
Court order dated 28.04.2021]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus to direct the respondents to take the period of service of the petitioner was 26 years instead of 18 years on the basis of the order passed in WP(MD)No.1298 of 2011 and WA(MD)No.702



WP(MD)No.8491 of 2021

of 2017 before the Madurai Bench of Madras High Court and the petitioner's representation to the respondents dated 07.08.2017 and 14.03.2018.

For Petitioner : Mr.C.Arunmozhi
For Respondent : Mr.G.V.Vairam Santhosh
No.1 Additional Government Pleader
For Respondent : Mr.S.C.Herold Singh
Nos.2 & 3

ORDER

The petitioner an unfortunate employee of the respondent Transport Corporation, retired from service on 31.12.2006 after a period of 26 years has approached this Court seeking a writ of mandamus directing the respondents to calculate his pension benefits by counting his period of service as 26 years, instead of 18 years.

2.The grievance of the petitioner is that his pension benefits were calculated by taking into account of the petitioner's service as 18 years, instead of 26 years.

3.The learned Counsel for the petitioner submits that the petitioner was appointed as a Driver in the 2nd respondent transport Corporation on



WP(MD)No.8491 of 2021

23.01.1981, his services were regularised on 01.09.1982, he continuously served for 26 years and retired from service on 31.12.2006. However during the year 1990, he caused an accident and therefore he was imposed with a punishment of dismissal from service. This order of dismissal from service was challenged by the petitioner before the Labour Court, Madurai in ID.No.275 of 1990, which was allowed by order dated 01.12.1992 with a direction to the respondent corporation to reinstate the petitioner with continuity of service, but without back wages. This order of the Labour Court dated 01.12.1992 was challenged by the respondent corporation before this Court in WP.No.11972 of 1993. Pending this writ petition, the 2nd respondent has ordered for reinstatement on 15.11.1995. The above writ petition filed by the respondent corporation was dismissed on 06.06.2000, which was not challenged by the respondent corporation. Therefore, the order of the writ court became final. In the meantime, this writ petitioner retired from service and claimed for his retirement benefits. Since only 18 years of service was taken into account for calculating pension benefits, the petitioner filed a writ petition in WP(MD)No.10434 of 2008 seeking a mandamus to the respondents to take into the service of six years also as per the award of the Labour Court dated 01.12.1995 and this court allowed the writ petition by order dated 19.11.2008 directing the



WP(MD)No.8491 of 2021

respondents to consider the representation of the petitioner. However the said representation of the petitioner was rejected by the respondent corporation by order dated 30.01.2009. Challenging this order, the petitioner once again approached this Court by filing a writ petition in WP(MD)No.1298 of 2011 seeking a writ of mandamus to the respondent corporation to consider his period of service as 26 years, instead of 18 years and this writ petition was allowed by this Court by order dated 11.04.2012 as under:

“9. The sole issue is as to whether the Corporation is justified in not computing the period from 21.12.1989 to 16.11.1995 for granting pension. On 21.12.1989, the petitioner was dismissed from service. The Labour Court passed an award on 01.1.21992 to reinstate the petitioner with continuity of service. However the corporation filed the writ petition and during the pendency of the writ petition, he was reinstated on 17.11.995. Ultimately the writ petition was dismissed on 06.06.2000, ie., the award of the Labour Court was confirmed. In these circumstances, I am of the view, the corporation is not justified in not calculating the period from 21.12.1989 to 16.11.1995 for granting pension. Therefore, the respondents are directed to take into account the period between 21.12.1989 and 16.11.1995 for grant of pension. However it is made clear that if the pension rules provides for contribution for this period from the petitioner,



WEB COPY



WP(MD)No.8491 of 2021

the corporation is directed to contribute the same and the said payment could be adjusted from the arrears of pension payable from 01.01.2007. The respondents are directed to grant pension by taking into account the service from 21.12.1989 to 16.11.1995 also, within a period of eight weeks from the date of receipt of a copy of this order.”

4.The order of the writ Court was challenged before this Court in writ appeal in WA(MD)No.702 of 2017 and the Division Bench by order dated 22.06.2017 dismissed the writ appeal as under :

“4.The second respondent was dismissed from service and the order of dismissal was challenged by him by raising an Industrial Dispute before the Labour Court by filing ID.No.275 of 1990. The Labour Court by award dated 01.12.1992, set aside the order of the dismissal, directed reinstatement of the second respondent in service with continuity of service, without backwages. The appellant herein challenged the said award by filing WP.No.11972 of 1993 and during the pendency of the said writ petition, the second respondent herein was reinstated into service as Drive on 17.11.1995. Ultimately the said writ petition filed by the appellant was dismissed on 06.06.2000. The said order has become final. As a consequence of the said order,



WEB COPY



WP(MD)No.8491 of 2021

the second respondent is deemed to have been an employee of the appellant and is entitled for the entire length of service to be counted for all purposes except backwages. Therefore, the Writ Court held that he is entitled for grant of pension under the contributory pension scheme and the reason for keeping him out of employment was not attributable to the employee but on account of the disciplinary proceedings initiated, which was set aside by the Labour Court and confirmed by this Court in W.P.No. 11972 of 1993, dated 06.06.2000. Thus, we find that there is no error in the order passed by the learned Single Bench. Accordingly, the Writ Appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.”

5.The petitioner has now approached this Court with a grievance that even after the orders of the Division Bench, the respondent Corporation has not taken into account the service period as 26 years and has not settled the retirement benefits.

6.The learned Standing Counsel appearing for the respondent Corporation submits that the case of the petitioner has been considered and proposal has already been sent to the Administrator for settling retirement benefits to the petitioner by calculating his period of service as 26 years.



WP(MD)No.8491 of 2021

7.This Court considered the rival submissions and perused the materials placed on record.

8.The petitioner is a retired employee of the respondent transport Corporation. He retired from service on 31.12.2006 and he has been agitating the issue for his retirement benefits from the year 2012. The petitioner is having a grievance that the service period has not been calculated as per the award passed by the Labour Court for payment of retirement benefits. The Labour Court has passed an award that this petitioner is entitled for continuity of service. The award passed by the Labour Court was challenged by the Transport Corporation and that was dismissed by this Court. Even after the order of this Court the respondents have not considered the petitioner's service as awarded by the Labour Court. Therefore, this petitioner has filed a writ petition wherein a direction was issued to consider his representation in accordance with the award of the Labour Court. However it was rejected by the respondent Corporation. Thereafter another writ petition was filed by this petitioner for a direction to consider his case in the light of the award of the Labour Court and it was also allowed that the petitioner is entitled to get continuity of service therefore his service has to be calculated as 26 years. The respondent



WP(MD)No.8491 of 2021

Corporation has filed a writ appeal before this Court and the writ appeal was dismissed.

9.Despite the orders of the Court, the respondents have not taken any decision on the claim of the petitioner and have driven the petitioner to file the present writ petition before this Court. This writ petition was also entertained by this Court in April 2021 and the learned Standing Counsel has taken notice on behalf of the respondent Corporation. Even thereafter they have not realised that the petitioner has to be paid with the retirement benefits as directed by the Labour Court and as confirmed by this Court. It appears only in the month of August 2024, a proposal has been made and even so far the amount has not been sanctioned.

10.Considering this attitude of the respondent Corporation in denying the eligible benefits to the petitioner for the past ten years, this Court is inclined to allow this writ petition with a cost of Rs.50,000/-.

11.However the learned Standing Counsel for the respondent Corporation persuaded that he will ensure that the terminal benefits would be settled within a period of one month and requested not to impose cost.



WP(MD)No.8491 of 2021

12.Considering this submission made on behalf of the respondent Corporation this Court imposes a cost Rs.25,000/- [Rupees Twenty Five Thousand] which shall be paid by the respondent transport corporation to the petitioner and the same shall be recovered from the officers concerned who are responsible for this delay in paying the terminal benefits even after the orders of the Division Bench in the year 2017.

13.In the result, this writ petition is allowed. The retirement benefits and the cost as above shall be paid to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

02.01.2025

DSK

To

- 1.The Secretary,
Transport Department,
Government of Tamil Nadu,
St.George Fort, Chennai.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Ltd,
Bypass Road, Madurai – 625 010.
- 3.The Administrator,
The Tamil Nadu State Transport Corporation
Pension Fund Trust,
Thiruvalluvar Illam,
Pallavansalai, Chennai – 2



WEB COPY



WP(MD)No.8491 of 2021

B.PUGALENDHI.J.,

DSK

WP(MD)No.8491 of 2021

02.01.2025