

W.P.No.836 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.06.2026

Pronounced on : 25.06.2026

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.836 of 2019

P.Vinayagamurthy

... Petitioner

vs

1.The Additional Chief Secretary,
Transport Department,
St.George's Fort,
Chennai – 600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.
Ramakrishna Road,
Salem – 636 007

3.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Pallavan Salai,
Chennai - 600 002.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of declaration to declare that the petitioner is entitled to count the period of service spent from the date of appointment i.e., 01.11.1995 till the date of his reinstatement 06.06.2007 along with the regular service spent by him in the present position as Assistant for the

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purpose of counting the length of service and to count such period for the incentives, review benefits and other service benefits along with the future pensionary as well as the gratuity benefits and he is entitled to be provide him the pay protection which he is entitled to.

For Petitioner : Mr.N.Desinghu

For Respondents : Mr.C.P.Goutham for R1
Government Advocate
Mr.M.Ashwin for R2 and R3
Standing Counsel

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the first respondent and the learned Standing Counsel for the 2nd and 3rd respondents and perused the materials available on record.

2. Briefly put the case of the petitioner is that he had initially joined the service of the second respondent as a daily wager on 15.09.1994 and was brought under regular time scale of pay from 01.11.1995; that while in service he had suffered certain disablements; that the first respondent referred him to medical examination to explore the possibility of his continuation in the job i.e., as driver; that the Medical Board had certified that he was medically unfit to continue in his post; and that the first respondent on the basis of the aforesaid certification instead of providing



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him with alternative employment, discharged him from service on 29.02.1999.

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3. It is the further case of the petitioner that aggrieved by the aforesaid action of the first respondent in discharging him from service without providing alternate employment, he had raised an industrial dispute under Industrial Disputes Act, 1947 vide I.D.No.45 of 2000 before the Labour Court, Salem; that the Labour Court taking note of certain executive orders and in particular, G.O.No.746 dated 02.07.1981 was pleased to pass award on 15.10.2003 declaring that he is entitled to be reinstated as a fresh entrant on the seniority basis.

4. The petitioner further contended that despite the Labour Court passing award in I.D.No.45 of 2000, the respondent did not reinstate him into service and only after lapse of 4 years reinstated him into service on 06.06.2007; that the Labour Court had failed to see that discharge, dismissal or termination of service on account of medical invalidation are statutorily barred under the provisions of Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act 1995; and that the order of



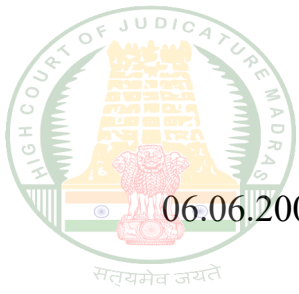
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the Labour Court, directing reinstatement as a fresh entrant is illegal and that the action of the respondent in reinstating him with immediate effect on 06.06.2007 is liable to be set aside.

5. Contending as above, the petitioner sought for issuance of a writ of declaration to declare that the petitioner is entitled to count the period of service spent from the initial date of appointment i.e., 01.11.1995 till the date of reinstatement on 06.06.2007 along with the regular service period spent by him in the present position with the second respondent for the purpose of counting the length of service and for granting benefits including future pensionary benefits as well.

6. Counter affidavit on behalf of the respondent is filed.

7. The respondent, by the counter affidavit, contended that the Labour Court while adjudicating the Industrial Dispute raised by the petitioner vide I.D.No.45 of 2000 had passed the award directing reinstatement of the petitioner into service as a fresh entrant; and that the respondent appointed the petitioner in the post of helper category as a fresh entrant w.e.f.



06.06.2007.



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8. The respondent, by the counter affidavit, also contended that the respondent thereafter granted benefits due to the petitioner by considering his service as a fresh entrant and thus, the petitioner is not entitled for calculation of his past service for grant of benefits.

9. Contending as above, the respondent prayed for dismissal of the writ petition.

10. I have taken note of the respective contentions urged.

11. Though the petitioner had claimed that the award of the Labour Court in I.D.No.45 of 2000 is contrary to the provisions of Disabilities Act, the petitioner did not challenge the award dated 15.10.2003 passed by the Labour Court to the extent, it had directed that the petitioner be reinstated in employment with the second respondent as a fresh entrant. Thus, the said award of the Labour Court had attained finality and the petitioner after a lapse of 16 years cannot be allowed to lay a challenge to the said award by

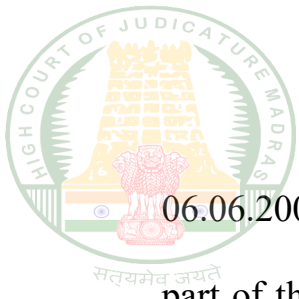


the present writ petition. Thus, the challenge to that portion of the award of Labour Court which had gone against the petitioner is hit by delay in laches and the petitioner is not entitled for being granted any relief to that extent.

12. In so far as the award passed by the Labour Court in I.D.No.45 of 2000 whereby the discharge of the petitioner from service was set aside and the labour Court having directed the second respondent to reinstate the petitioner into service as a fresh entrant, the second respondent could not have remain silent by not implementing the award for 4 years i.e., till June, 2007.

13. Since, the award passed by the Labour Court binds both the worker as well as the Management, the respondents are bound to implement/enforce the award under the provisions of Industrial Disputes Act, 1947.

14. As the Labour Court had directed the second respondent to reinstate the petitioner into its service as a fresh entrant, and the second respondent having not taken any steps to enforce the said award till



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06.06.2007 by appointing the petitioner as employee, the said action on the

part of the second respondent cannot be countenanced. As a duty was cast on the second respondent to give effect to the order immediately thereafter, the respondents could not have dragged their feet in appointing the petitioner as a fresh entrant immediately thereafter. The second respondent having failed to take back the petitioner into service immediately on passing of the award, this Court is of the view that the second respondent cannot be allowed to claim or contend that the service of the petitioner would only be counted when he was reinstated i.e., w.e.f. 06.06.2007 and not immediately after passing of the award. This is for the reason that the second respondent did not choose to assail the award of the Labour Court. Thus, their being no impediment for enforcing the said award, the respondent cannot claim of it having taken 4 years, to give effect to the award, and for the delay of respondents in implementing the award, petitioner cannot be made to suffer.

15. Thus, this Court is of the considered view that though the petitioner had claimed that his service is to be counted from his initial date of being regularised i.e., 01.11.1995, as noted herein above, since, that part of the award in I.D.No.45 of 2000, whereby, the Labour Court having



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directed the second respondent to appoint the petitioner as fresh entrant, not being challenged by the petitioner and having attained finality, the petitioner is only entitled for counting of his service from the date of passing of the award i.e., the following day when he is to be considered as having been appointed as a fresh entrant and not from an earlier date or later date.

16. In view of the above, the second respondent is directed to count the service of the petitioner from 16.10.2003 i.e, the day following passing of the award as the date on which the petitioner having been re-appointed into service of the second respondent and grant him all the consequential benefits both for the purpose of counting of service and monetary benefits.

17. Subject to the above direction, this writ petition is disposed of.

No costs.

25.06.2026

Speaking order / Non-speaking order

Index : Yes / No

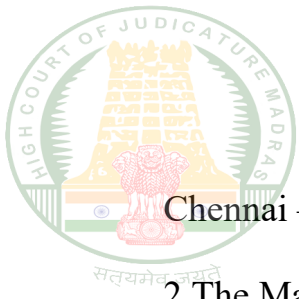
Neutral Citation : Yes / No

msv

To

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Transport Department,
St.George's Fort,

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T. VINOD KUMAR, J.

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