



W.A.No.1774 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.07.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**W.A.No.1774 of 2011
and M.P.No.1 of 2013**

The Administrator,
Tamil Nadu State Transport Corporation
Employees Post Retirement Welfare Fund Scheme,
Thiruvalluvar Illam, Pallavan Salai,
Chennai – 600 002.

... Appellant

Vs

- 1.The State Transport Corporation
Retired Employees Welfare Association,
Rep. by its General Secretary, Thiru.K.Karsan,
Regd.No.127/2001,
No.2, Pallavan Salai, Chennai – 600 002.
- 2.The Secretary to Government,
Transport Department,
Secretariat, Chennai – 600 009.
- 3.The Managing Director,
Metropolitan Transport Corporation
[Chennai] Limited,
Pallavan House, Anna Salai,
Chennai – 600 002.



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- 4.The Managing Director,
State Express Transport Corporation,
Thiruvalluvar Illam,
Pallavan Salai, Chennai – 600 002.
- 5.The Managing Director,
Tamil Nadu State Transport Corporation
[Kovai] Limited,
No.37, Mettupalayam Salai,
Coimbatore – 641 043.
- 6.The Managing Director,
Tamil Nadu State Transport Corporation
[Salem] Limited,
No.12, Ramakrishna Salai,
Post Box No.713, Salem – 636 007.
- 7.The Managing Director,
Tamil Nadu State Transport Corporation
[Villupuram] Limited,
No.3/137, Salamedu, Vazhuthareddy Post,
Villupuram – 605 602.
- 8.The Managing Director,
Tamil Nadu State Transport Corporation
[Kumbakonam] Limited,
No.20, Railway Station Pudu Salai,
Kumbakonam.
- 9.The Managing Director,
Tamil Nadu State Transport Corporation
[Madurai] Limited,
Bye-pass Salai,
Madurai – 625 010.

... Respondents



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PRAYER: Writ Appeal filed under Clause 15 of the Letter Patent Act to set aside the order of the learned Judge made in W.P.No.23299 of 2009 dated 20.04.2011.

For Appellant	: Mr.C.S.K.Sathish
For R1	: Mr.S.T.Varadarajulu
For R2	: Mr.M.Murali Government Advocate
For R3	: Mr.Balaji Standing Counsel
For R4	: Mr.S.Sivasubramanian Standing Counsel
For R5	: Mr.A.Sundaravadhanan Standing Counsel
For R6	: Mr.R.Babu Standing Counsel
For R7	: Ms.Pavithra Standing Counsel
For R8	: Mr.Sathya Gandhi Standing Counsel
For R9	: Mr.C.Gauthamaraj Standing Counsel



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JUDGMENT

(Judgment of the Court was made by R.SURESH KUMAR.,J.)

This writ appeal has been directed against the order passed by the Writ Court dated 20.04.2011 made in W.P.No.23299 of 2009.

2.The first respondent i.e., the State Transport Corporation Retired Employees Welfare Association was the writ petitioner who filed the said writ petition seeking for issuance of writ of Mandamus directing the second respondent therein i.e., the Administrator of Tamil Nadu State Transport Corporation Employees Post-retirement Welfare Fund Scheme to pay the post retirement amount to the retired employees of the Corporation continuously till their lifetime as per Clause 36(c) of the Settlement dated 30.09.1992.

3.Having heard the said writ petition, the learned Judge by impugned order dated 20.04.2011 has passed the following order:

“5.Admittedly, when the respondents 2 and 3 have



already sent a written request to the Government to consider stoppage of coverage of the scheme for the employees enrolled from 01.01.2007 and as there is no order till now, passed by the Government, naturally, the Retired Employees of the petitioner's Welfare Association are entitled to get the benefit in terms of the settlement reached under Section 12(3) of the Act. Therefore, till the Government takes final decision, this Court directs the second respondent to extend the benefit as they are legally entitled as per the 12(3) settlement reached on 30.09.1992 and the same will be considered within a period of three months from the date of receipt of a copy of this order.”

4. Aggrieved over the same, this writ appeal has been filed by the present appellant who stood as the second respondent in the writ petition.

5. Heard Mr.C.S.K.Sathish, learned counsel appearing for the appellant, Mr.S.T.Varadarajulu, learned counsel appearing for the first respondent and Mr.M.Murali, learned Government Advocate appearing for the State.



6. In the year 1992, a memorandum of settlement under Section 12(3) of the Industrial Disputes Act, 1947 was reached between the Transport Corporation and its employees. The settlement dated 30.09.1992 has got so many salient features, among which, Clause 36 of the Settlement of the year 1992 speaks about Post Retirement Welfare Scheme. In order to understand better, the portion of Clause 36 of the Scheme is extracted hereunder:

“36.A scheme called Tamil Nadu State Transport Corporation Employees' Post Retirement Welfare Fund Scheme, 1992 shall be introduced effective 01.09.1992. The salient features of the Scheme shall include:-

(a) Every employee who is or is brought on regular roll of the Corporation on or after 01.09.1992 shall contribute a sum of Rs.50 per month towards this fund till his exit;

(b) The management shall make as one time contribution of Rs.1000 to the fund in 40 equal monthly instalments in respect of every employee who is or is brought on its regular roll on or after 01.09.1992;

(c) Every employee on the regular roll of the Corporation retiring on superannuation on or after 01.09.1992, after becoming a member of the Fund shall be eligible for a monthly benefit till his death as per Table-1.”



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7. Therefore, the employees who were in service as on 01.09.1992 become eligible to join in the Welfare Scheme and those employees also joined and made contributions.

8. The scheme went on for five years i.e., upto 31.08.1998. From 01.09.1998 a new scheme has been brought into force, under which a Pension Benefit Trust was formed and the employers-employees contributions to be made under 1998 new scheme would be managed by the Trust and from out of the said Trust fund, pension would be paid to the employees on permanent basis.

9. In this context, the employees who were working as on 01.09.1992 who joined in the 1992 welfare scheme but retired on or before 31.08.1998 had been taken care by the respondent Transport Corporation as well as the appellant Trust stating that they would continue to get the benefit arising out of the 1992 welfare fund scheme till their lifetime.



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10.What was the benefit that would be paid to those who retired on or before 31.08.1992 under 1992 welfare scheme is as per Table-1 of Clause 36 of 1992 welfare scheme.

11.Insofar as the employees who continued to work beyond 31.08.1998, in other words, the employees who were on the rolls on permanent basis as on 01.09.1998 would be eligible and entitled to join in the 1998 Pension Trust Scheme. Therefore, those employees who had been on the roll as on 01.09.1998 had joined in the 1998 Scheme.

12.As per 1998 Scheme, a different contribution have to be made, based on which they would be entitled to get pension on their retirement.

13.It is to be noted that, insofar as 1998 Scheme is concerned, as the same has been still continued and the present appellant is the custodian of the same, there has been no quarrel with regard to the employees who joined in the 1998 Scheme and they are entitled to get the benefit on their retirement.



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14. Now the only quarrel is, the employees who joined in the 1992 welfare scheme notwithstanding the same since they become eligible to join the 1998 Scheme also where they joined, whether would be entitled to get the benefit arising out of 1992 Scheme, if so, what is the benefit and to what extent, was the quarrel.

15. In this context, it is to be noted that, in the year 2015, a further Settlement under Section 12(3) has been reached between the employees and the employer by settlement dated 13.04.2015. Under the 2015 settlement, this 1992 welfare scheme has also been figured and it has been decided to give the benefit to the employees from and out of the 1992 Scheme.

16. In fact at one point of time, probably in 2007 or 2008 the payment or benefit to be made to some employees who retired after 1998 under the 1992 Scheme seems to have been stopped, but in the 2015 settlement it was one of the point agreed between them that the 1992 Scheme would be re-



implemented with some modifications. The salient feature of such implementation with modification of 1992 Scheme has been stated at Clause 9 of 2015 settlement. For better understanding, the same is extracted hereunder:

"9. ஓய்வு கால சேமநல நிதி திட்டம் -1992
(PRBF)

தொழிலாளர்களின் பங்களிப்புடன்
நடைமுறைப்படுத்தப்பட்ட தமிழ்நாடு அரசு
போக்குவரத்துக் கழக ஊழியர்கள் ஓய்வு கால
சேமநல நிதி திட்டம் -1992 நிதி நிலைமையை
கருத்தில் கொண்டு கீழ்க்கண்ட மாற்றங்களுடன்
மீண்டும் நடைமுறைப்படுத்தப்படும்.

1. ஒவ்வொரு மாதமும் தொழிலாளியின்
ஊதியத்தில் தற்போது பிடித்தம் செய்யப்பட்டு வரும்
சேமநலநிதித் தொகை தொழிலாளி ஒருவருக்கு
ரூ.50/-லிருந்து ரூ.150/- ஆக உயர்த்தப்பட்டு
பிடித்தம் செய்யப்படும்.

2. ஒவ்வொரு மாதமும் நிர்வாக தரப்பு
பங்களிப்பாக தொழிலாளி ஒருவருக்கு ரூ.50/- விதம்
பங்களிப்பு செய்யப்படும். மேலும் ஏற்கனவே,
நடைமுறையில் உள்ள முறைப்படி ஒரு
தொழிலாளிக்கு நிர்வாக தரப்பாக ஒரு முறை
மட்டும் ரூ.1000/-ம் பங்களிப்பாக வழங்குவது
தொடர்ந்து நடைமுறைப்படுத்தப்படும்.



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3. ஒவ்வொரு பயனாளிக்கும் 15 வருடங்களுக்கு மட்டும் பயன் தொகை வழங்கப்படும்.

4. 01.09.1992 முதல் 31.08.1999 வரை மாதந்திர பயன் தொகை 15 வருடங்கள் பெற்று வந்த ஓய்வு பெற்ற தொழிலாளர்களுக்கு ரூ.1000/- பணப்பயன் தொகை தொழிலாளியின் வாழ்நாள் முழுவதும் மாதம்தோறும் வழங்கப்படும்.

1992-ம் ஆண்டு ஒப்பந்தத்தின் சரத்து 36(h) ன் படி குழு (Trustees) ஒன்று அமைக்கப்பட்டு ஓய்வு கால சேமநல நிதியின் நிதி நிலை ஆய்வு செய்யப்படும். குழு அறிக்கையின் பரிந்துரையின்படி தொழிலாளியின் பங்களிப்பு தொகை மறுசீரமைக்கப்படும்."

17.Under the 2015 settlement, the 1992 Scheme will be re-implemented however with a modification that the employees' contribution hitherto made was Rs.50/- has been enhanced to Rs.150/- per month. One time payment of Rs.1,000/- to be made by the employer continues and the important clause is Clause 9(3) of 2015 settlement, which says that such a benefit under the 1992 Scheme for those who retired after 31.08.1998 would be restricted only to fifteen years. However, as per Clause 9(4) those who



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retired on or before 31.08.1998 can continue to get the benefit under the Scheme provided instead of getting the benefit as per the Table under Clause 36 of 1992 Welfare Scheme, they will be paid only a constant amount of Rs.1,000/- per month till their lifetime.

18.These are the modification that was made and agreed in the 2015 settlement between the employer and the employees and accordingly the contribution of the employee also has been enhanced from Rs.50/- to Rs.150/- and that was also collected from the employees who have been on the roll as on 13.04.2015.

19.This system was continued for some time and in the meanwhile, since earlier settlement under Section 12(3) dated 13.04.2015 was lapsed by 31.08.2016, in order to reach another Settlement under Section 12(3), the employer and employee had a talk and ultimately they reached another Section 12(3) Settlement on 04.01.2018 and as per Clause 44 of the Settlement dated 04.01.2018, that settlement would be effective from 01.09.2016 to 31.08.2019 i.e., for a period of three years.



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20. In these background, what are the benefits for the employees who worked and retired after 01.09.1998 would be entitled to receive was the question, where, as we stated above, at one point of time, sometime in 2007 or 2008 the benefit that was given to the retired employees who retired after 01.09.1998 abruptly stopped under 1992 Scheme and that was decided to be re-implemented by Settlement under Section 12(3) dated 13.04.2015 with modification including the enhanced contribution of the employees.

21. However, as per settlement dated 04.01.2018 i.e., 2018 settlement under Section 12(3) of the Act, some more modification had been made and as per the said modification, the benefit that was decided to give for those who retired on or before 31.08.1998 by way of bulk payment of Rs.1,000/- every month till their lifetime was continued.

22. However, to receive the employees contribution of Rs.150/- was decided to be stopped from the employees who are on the roll as on the date of settlement, whatever the contribution made by such employees would be



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paid back as one time payment at the time of their retirement. Suppose the contribution made by the employees who retired after 01.09.1998 is higher than the benefit they enjoyed so far, the excess amount paid by way of excess contribution would be calculated and accordingly the said amount would be paid to such employees.

23.These are the salient features of 2018 settlement which came into effect from 01.09.2016.

24.Now the question arose is that, the employees who become the member of 1992 Welfare Scheme but not retired before 31.08.1998 and continued to work for some years after 01.09.1998 whether they are entitled to get the benefit under 1992 Scheme and if so, to what extent?

25.Under the 1992 Welfare Scheme, those who joined in the Scheme, after retirement, will be entitled to get the benefit as per Table-1 of Clause 36 for the lifetime but that has been modified at the time of re-implementation of the Scheme by virtue of 2015 settlement where they



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restricted the benefit for those who retired on or before 31.08.1998 for a sum of Rs.1,000/- per month till their lifetime.

26.Insofar as others are concerned, that means, those employees who retired after 01.09.1998 is concerned, they are entitled to get the benefit out of 1992 Scheme for a period of fifteen years from the date of retirement. With regard to this modified benefit there could be no quarrel.

27.However, under the 2018 Settlement the very 1992 Welfare Scheme itself was decided to be stopped by stopping the collection of contribution of the employees.

28.However, those employees who retired on or before 31.08.2016 is concerned, certainly since 2015 Settlement i.e., modified 1992 Scheme since has been re-implemented alone would be made applicable, whether those employees who retired on or before 31.08.2016 would be entitled to get the benefit under the modified 1992 Scheme as per the 2015 Settlement is the only question to be answered by this Court.



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29.Insofar as those employees are concerned i.e., the employees who entered into service prior to 1998, become the member of 1992 Welfare Scheme, continue to serve the Corporation for several years and retired from service on or before 31.08.2016 are concerned, the original scheme of 1992 as well as the modification as envisaged in 2015 Settlement alone would apply. Therefore, the import of 2018 Settlement cannot be imposed against those employees retired on or before 31.08.2016.

30.In the result, this writ appeal is disposed of with the following order:

“That the employees including the members of the first respondent Association who become the member of the Welfare Scheme of 1992, continue to work beyond 01.09.1998 and retired at any point of time before 31.08.2016 would be entitled to get the benefit of 1992 Welfare Scheme for a period of fifteen years from the date of retirement.



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31.We make it clear that those employees who retired on or after 01.09.2016 would not be entitled to get such benefit arising out of 1992 Scheme. Instead they would be governed by the terms of 2018 Settlement dated 04.01.2018.

32.With these clarifications and declaration, we feel that this writ appeal can be disposed of. Accordingly, the writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (K.B., J.)
19.07.2023

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation:Yes/No
cse

To

1.The Secretary to Government,
Transport Department,
Secretariat, Chennai – 600 009.

2.The Managing Director,
Metropolitan Transport Corporation
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Pallavan House, Anna Salai,
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