



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2015

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Appeal (MD) No.660 of 2014
and MP(MD)No.2 of 2014

1.The Management

Tamilnadu State Transport Corporation (Madurai) Ltd.,
Dindigul Region,
rep.by its General Manager,
Dindigul.

2.The Administrator,

Tamilnadu State Transport Employees Pension
Fund Trust, Thiruvalluvar Illam
Anna Salai, Chennai - 2.

.. Appellants/Respondents
in Writ Petitioners

Vs.

K.Chinnakalai

.. Respondent/Writ Petitioner

Writ Appeal filed under Section 15 of Letters Patent against the order dated 07.01.2013 passed in WP(MD)No.12728 of 2011 by this Court.

Prayer in WP(MD). 12728/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to continue to pay pension to the petitioner with arrears from June 2005 with 18% interest under TNSTC Employees Pension Fund Scheme after holding that the action of the Respondent in not paying him pension from June 2005 is illegal.

For Appellants : Mr.B.Pugalendhi
For Respondent : Mr.Ajay Khose
for Mr.S.Arunachalam

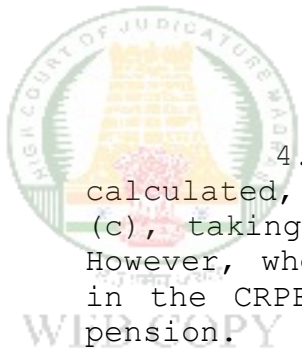
JUDGMENT

(Judgment of the Court was delivered by V.RAMASUBRAMANIAN,J.)

The Tamil Nadu State Transport Corporation (Madurai) Limited has come up with the above Appeal challenging the order of the learned Single Judge granting a mandamus at the instance of the respondent herein to continue to pay pension with arrears from June, 2005, under the Employees Pension Fund Scheme of the Corporation.

2.Heard Mr.B.Pugalendhi, learned Standing Counsel for the appellants and Mr.Ajay Khose, learned counsel for the respondent.

3.The respondent herein was employed as a Head Constable/Driver, in the Central Reserve Police Force, for a period of 25 years, from 21.12.1962 upto 01.05.1988. After taking voluntary retirement from service, the respondent got appointed as driver in the State Transport Corporation. He rendered service in the State Transport Corporation, for more than ten years from 14.06.1989 and retired on 28.02.2002.



4. When a question arose as to how the pension is to be calculated, the appellants themselves calculated pension as per Rule 14 (c), taking the service rendered by the respondent as military service. However, when an audit objection was raised to the effect that a service in the CRPF is not military service, the appellants stopped payment of pension.

5. Therefore, the respondent came up with a writ petition in WP (MD) No. 12728 of 2011. The writ petition was allowed by a learned Judge, forcing the Corporation to come up with the above Appeal.

6. The only point that falls for consideration is as to whether service in CRPF could be accounted as military service or not?

7. Rule 14(c) of the Tamil Nadu State Transport Corporation Employees' Pension Fund Rules reads as follows:

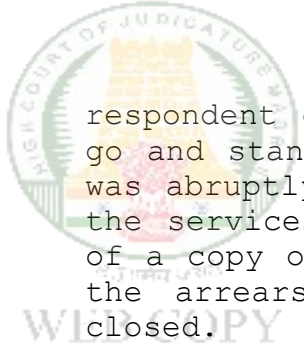
"14(c) Provided that the provisions of Rule 14(b) shall not apply in the cases of members who are ex-servicemen and drawing pension for the military service" subject to the conditions that such option as provided in the Rule 16 of Tamil Nadu Pension Rules be obtained from these pensioners".

8. The service rendered, as rightly contended by the Corporation, in CRPF cannot be equated to military service, though Mr. Ajay Khose, learned counsel for the respondent contended that service rendered in one disciplined force cannot be treated differently from the service rendered in another disciplined force, we do not think so. Ex-servicemen, which is a term used to connote the retired military personnel, is used with specific reference to those who served in the military. This is why the forces such as CRPF are only called para military forces and they are not equated to service in the military.

9. In Rule 22 of the General Rules for Tamil Nadu State and Subordinate Services there is a quota reserved for ex-servicemen, which a person retired from CRPF will not be able to claim. Therefore, the claim of the respondent based upon Rule 14(c) was not well founded.

10. The respondent relied upon a decision of the Division Bench of this Court in WA(MD) No. 685 of 2011 dated 30.04.2015. But it appears that the Supreme Court has already stayed the operation of the said Judgement in SLP (Civil) No. 30402/2015 by order dated 02.11.2015. In any case, the Judgment of the Division Bench concerned with a case of military service itself. Therefore, the said decision is of no avail.

11. In view of the above, the writ appeal is allowed and the order of the learned Judge is set aside. However, any amount paid by way of pension for the period from 2002 to 2005 to the respondent shall not be recovered, as the respondent was not at fault. Insofar as the pension payable from June 2005 is concerned, the Corporation shall calculate the same and first pay the arrears within a period of eight weeks as per the Rules and continue to pay as per the Rules the future pension. We are conscious of the fact that many employees who recently retired are actually standing in the queue for the grant of pensionary benefits due to the financial crisis in the Corporation. But the case of the



respondent cannot be equated to those cases and he cannot be allowed to go and stand in the queue, as the pension that he was drawing from 2002 was abruptly stopped in 2005. The respondent shall submit the details of the services rendered in CRPF within two weeks from the date of receipt of a copy of this order and within eight weeks, the appellants shall pay the arrears. No costs. Consequently, connected MP(MD)No.2 of 2014 is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

1.The General Manager, Management,
Tamilnadu State Transport Corporation (Madurai) Ltd.,
Dindigul Region, Dindigul.

2.The Administrator,
Tamilnadu State Transport Employees Pension
Fund Trust, Thiruvalluvar Illam
Anna Salai, Chennai - 2.

+1cc to M/s.S.Arunachalam, Advocate in SR.68057

Writ Appeal (MD) No.660 of 2014
26.11.2015

mj

PBK/NGM-SS/SAR-I 09/12/2015 ::3P-4C:: (IT)