



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Appeal(MD) No.979 of 2015

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
By Pass Road, Madurai 625 016.

2.The General Manager,
Tamil Nadu Transport Corporation
(Madurai) Limited,
Dindigul Region,
Dindigul 624 004.

... Appellants/Respondents

Vs.

A.Fathimamary

... Respondent/Petitioner

Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 11.02.2014 made in W.P(MD)No.18222 of 2013.

Prayer in WP(MD). 18222/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, for the issue of a writ of Mandamus directing the respondents to settle the wages for the Non-Employment period of petitioner's husband and also to sanction family pension from 24.08.2013 and also other retirement benefits including surrender leave salary, contribution to institute of Road Transport, Social Security Scheme benefit, Employees Retirement Benefit Scheme and also to provide Compassionate Appointment to the petitioners Son A.Jerone Selvakumar in terms of Rule 19 B (1) of the Tamilnadu State Transport Corporation pension Fund Rule and in the light of the Judgement of this Honble Court reported in 2012 (4) LLN 436 Madras .

For Appellants : Mr.A.Jeyaram

For Respondent : Mr.S.Govindan

JUDGMENT

(Judgment of the Court was delivered by **R.SUDHAKAR, J**)

The Transport Corporation, on appeal against the order of the learned single Judge who directed that the respondent herein, wife of the deceased employee would be entitled retirement benefits including surrender leave salary contribution and other benefits under the Employees Retirement Benefit Scheme as also compassionate appointment to



the respondent's son.

2.The learned single Judge taking note of the fact that the second respondent sought for approval before the competent authority for dismissal of the first respondent's husband before the Special Deputy Commissioner of Labour which got rejected and that was not challenged and therefore, the learned single Judge relying upon the decision of the Apex Court in **Tamil Nadu State Transport Corporation Vs. Neethivilangan** reported in **2001 (1) LLJ 296 : (2001) 9 SCC 99** passed the following order:-

"2.In view of the above, this Writ Petition is allowed and consequently, the respondents are directed to pay the benefits, which have accrued to the deceased employee, who is the husband of the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. The petitioner is also directed to get affidavits from all the legal heirs, authorizing her to receive such benefits.

3.The petitioner has also made a request for appointment on compassionate ground. The said request of the petitioner for appointment on compassionate ground will have to be considered by the respondents on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that the request of the petitioner for appointment on compassionate ground cannot be rejected on the ground that her deceased husband was dismissed from service. In other words, the request of the petitioner will have to be considered taking into consideration of the fact that the husband of the petitioner was in employment at the time of his death. It is also made clear that this order is passed without prejudice to the rights of the respondents to challenge the order passed, by which the approval petition was rejected. No costs. Consequently, connected Miscellaneous Petition is closed".

3.Primarily, the learned single Judge was of the view that since the rejection was not challenged and therefore, the deceased employee seems to be in service, pursuant to which the consequential relief will flow. The learned single Judge also directed the authorities to consider the claim of the respondent for compassionate appointment as per Rules. The learned counsel took no other legal plea except stating that they sought permission to pursue the matter insofar as the rejection of the approval petition is concerned and this was not granted. Liberty has been granted to the Department to challenge the rejection order. We find that the Department has not even read the order of the learned single Judge before pursuing the matter before this Court.

4.In the light of the above, we are not inclined to interfere with the order passed by the learned single Judge. The writ appeal is dismissed accordingly. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar (Writs)

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Sub Assistant Registrar



sms

To,

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
By Pass Road, Madurai 625 016.

2.The General Manager,
Tamil Nadu Transport Corporation
(Madurai) Limited,
Dindigul Region,
Dindigul 624 004.

+1CC to Mr.A.Jeyaram Advocate Sr.No.55633
+1CC to Mr.S.Govindan Advocate Sr.No.55485

GJM/JGB/8.10.15-2P-5C

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