

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.11579 of 2016

and

W.M.P.No.9978 of 2016

K.Annamalai

... Petitioner

Vs.

1.The Managing Director,
Metropolitan Transport Corporation (Chennai) Ltd.,
"Pallavan House"
Anna Salai, Chennai-600 002.

2.The Senior Deputy Manager (HRD),
Metropolitan Transport Corporation (Chennai) Ltd.,
"Pallavan House",
Anna Salai, Chennai-600 002.

3.Sriram City Union Finance Limited,
No.4/289, first Floor, Pycrofts Road,
Triplicane,
Chennai-600 005.

4.C.Venkatesan,
No.19, NSK Street, Kalaivanan Nagar,
Padi, Chennai-600 050.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st and 2nd respondents to release the pension and Gratuity/Service benefits entitled to the petitioner since his retirement on 31.10.2015.

For Petitioner : Mr.A.Jenasenan

For respondents : Mr.P.paramazivadass (For R1 & R2)
Mr.N.Gnanalingam (For R3)

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, directing the respondents to pay the Pension and Gratuity / Service benefits to the petitioner.

2. In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1. The petitioner joined the 1st respondent-Department as Conductor in the year 1983. After putting long service, the petitioner was promoted as Selection Grade Conductor. While the petitioner was in service, he had signed as Guarantor in a loan agreement for a sum of Rs.2,50,000/- entered in between the 4th respondent and the 3rd respondent. Along with the petitioner, two other government employees had also signed in the said loan agreement as Guarantors. As the 4th respondent/borrower had defaulted in making the loan amount, arbitration proceedings were initiated by the 3rd respondent against the 4th respondent and the petitioner and two other guarantors in A.C.P.No.146 of 2012, wherein the petitioner along with the 4th respondent and two other guarantors were held jointly and severally liable to pay a sum of Rs.3,67,534/- to the 3rd respondent. Subsequently, the 3rd respondent had preferred an E.P.No.2607 of 2014 before the learned City Civil Court. The City Civil Court by order dated 10.03.2015 had directed the respondent-Department to withhold the above mentioned sum from the salary of the petitioner in monthly installments 1/3rd of the salary over and above Rs.1,000/- and to remit the said monthly installments to the Court. Accordingly, from May, 2015, a sum of Rs.1,000/- was withheld from the petitioner's monthly salary. The petitioner was not able to participate in the arbitration proceedings and upon being made aware of the above which culminated in Rs.1,000/- being deducted from his salary, the petitioner is now taking steps to challenge the arbitration award in a manner known to law.

2-2. While so, the petitioner retired on 31.10.2015 from the 1st respondent as Conductor. The petitioner submitted the necessary application and documents, for release of pension and other benefits such as PF, gratuity, etc., but, the same was kept pending. Thereafter, the petitioner had also addressed a letter dated 17.02.2016, whereby the petitioner stated that the

petitioner was in the process of challenging the arbitration award and requested in the interregnum, that the sum of Rs.1,000/- may be deducted from his monthly pension as being done from his salary earlier, till the issue is resolved by the Court. The petitioner had made an emphatic request stating that he was dependent solely on the monthly pension and on the retirement benefits for his life and livelihood. But, no retirement benefits were disbursed to the petitioner. Hence, the petitioner has come forward with the present writ petition.

3. When the matter is taken up for consideration, the learned counsel for the petitioner submitted that pursuant to the direction given by the City Civil Court in E.P.No.2607 of 2016 vide order dated 10.03.2015, a sum of Rs.1,000/- was withheld from May, 2015, from the petitioner's monthly salary, since he stood as a guarantor to the loan borrowed by the 4th respondent from the 3rd respondent. Now, the petitioner retired from service on 31.10.2015. As per Section 60(1)(g) of CPC, the stipend and gratuities allowed to pensioners of the government are not liable for attachment. The petitioner is a senior citizen and he is solely dependent on his monthly pension and the retirement benefits for his live and livelihood. Thus, the learned counsel for the petitioner sought for a suitable direction to the respondents.

4. Heard the learned counsel appearing for the respondents also and perused the materials available on record.

5. From a perusal of the materials available on record, it seen that pursuant to the direction given by the City Civil Court in E.P.No.2607 of 2016 vide order dated 10.03.2015, a sum of Rs.1,000/- was withheld from May, 2015, from the petitioner's monthly salary, since he stood as a guarantor to the loan borrowed by the 4th respondent from the 3rd respondent. Now, the petitioner retired from service on 31.10.2015. As per Section 60(1)(g) of CPC, the stipend and gratuities allowed to pensioners of the government are not liable for attachment. When that being the legal position, I am of the opinion that the prayer made by the petitioner in this writ petition can be entertained by this Court.

6. Accordingly, the writ petition is allowed, with a direction to the respondents 1 & 2 to release the pension and gratuity/service benefits entitled to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. However, the 3rd respondent is at liberty to work out his remedy before the civil forum for recovery of the loan amount. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Managing Director,
Metropolitan Transport Corporation (Chennai) Ltd.,
"Pallavan House"
Anna Salai, Chennai-600 002.
2. The Senior Deputy Manager (HRD),
Metropolitan Transport Corporation (Chennai) Ltd.,
"Pallavan House",
Anna Salai, Chennai-600 002.

+1cc to Mr.A.Jenasenan, Advocate Sr.59899

+1cc to Mr.N.Gnanalingam, Advocate Sr.59735

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