



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. (MD) No.921 of 2015

V.Azhagirisamy

... Appellant/Petitioner

Vs.

The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Rep. by its Managing Director,
Kumbakonam-612 204.

... Respondent/Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent Act against the order dated 11.06.2015 in W.P.(MD).No.9350 of 2015.

Prayer in WP(MD). 9350/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondent to pay the petitioner the difference in salary for the month of September 2010 and difference in retirement benefits including gratuity amount based and new pay band introduced in settlement dated 22.01.2011 under Section 12(3) of Industrial Disputes Act 1947 which came into effect from 01.09.2010 together with interest at the rate of 18% per annum and further directing the respondents to pay interest at the rate of 18% per annum for the belated payment of commuted value of pension, gratuity amount, leave salary and pass such other or further orders.

For Appellant : Mr.A.Rahul

For Respondent : No appearance

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J**]

Though notice is served upon the respondent and the name of the respondent corporation is printed in the cause list, none appeared for the respondent.



2. The appellant was the writ petitioner who sought for a direction upon the respondent to pay the difference in salary for the month of September 2010 and difference in retirement benefits including the gratuity amount based on new pay band introduced pursuant to a settlement under Section 12(3) of the Industrial Disputes Act, 1947, dated 22.01.2011 together with interest at 18% per annum.

3. When the case came up before the writ Court, it was informed by the respondent that the writ petitioner was retired from service on 30.09.2010. Further the writ Court held that there is a dispute and therefore, the remedy lies before the Labour Court and it is open to the writ petitioner to raise necessary Industrial Dispute or file a petition under Section 33(c)(2) of the Industrial Dispute Act.

4. In our considered view, the relief sought for by the appellant was to effect payment on difference in salary, such positive direction cannot be issued and the writ Court can issue direction for consideration of the writ petitioner's representation, which he has submitted to the management. We are also *prima facie* feel that there is no dispute with regard to the appellant's entitlement. Probably the amount of money that is required to be paid to the appellant has to be decided by the management and the retirement of the appellant will not have an effect on the payment. What is claimed is arrears of wages. Therefore, we are inclined to issue direction accordingly. Setting aside the order passed in the writ petition, there will be a direction to the respondent to consider the representation of the petitioner, dated 28.12.2014, and pass orders on merits and in accordance with law, within a period of 4 weeks from the date of receipt of a copy of this order. The appellant is directed to send one more copy of the representation along with this order to the respondent for due process. The writ appeal is allowed with the above direction. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Managing Director,
Kumbakonam-612 204.



+1cc to Mr.D.Sivaraman, Advocate Sr.No.53267

+1cc to Mr.A.Rahul, Advocate Sr.No.53024

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