



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2017

CORAM:

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL  
AND  
THE HONOURABLE MRS.JUSTICE R.THARANI**

**W.A(MD)No.1457 of 2017  
and  
C.M.P(MD)No.11194 of 2017**

1. The Tamil Nadu State Transport Corporation (Madurai) Ltd.,  
Represented by its Managing Director,  
Bypass Road,  
Madurai.
  2. The General Manager,  
The Tamil Nadu State Transport Corporation (Madurai) Ltd.,  
Madurai Region,  
Bypass Road,  
Madurai.
- .. Appellants/1<sup>st</sup> and 2<sup>nd</sup> Respondents
- .vs.
1. V.Arumugasamy .. 1<sup>st</sup> Respondent/Petitioner
  2. The Administrator,  
Tamil Nadu State Transport Corporation Employees Pension Fund Trust,  
Thiruvalluvar Illam,  
Pallavan Salai,  
Chennai-2. ..2<sup>nd</sup> Respondent/3<sup>rd</sup> Respondent

**PRAYER:** Writ Appeal is filed under Clause 15 of Letters Patent, praying to set aside the order in W.P(MD)No.5917 of 2016 dated 06.04.2017 on the file of this Court.

Prayer in WP(MD). 5917/ 2016 :

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 settle all the petitioner's terminal benefits including his monthly pension from the date of superannuation, his gratuity, Commutation, leave salary, social security amount, Refund amount from Institute of Road Transport and other attendant



benefits together with interest at the rate of 18% per annum payable from the date of the petitioner's retirement to till the date on which the above benefits are settled to him.

For Appellants

: Mr.A.Jeyaram

For R-1

: Mr.A.Rahul

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### JUDGMENT

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[Judgment of the Court was made by **M.VENUGOPAL.,J.**]

Heard the Learned Counsel for the Appellants and the Learned Counsel for the First Respondent.

2. Earlier, the Learned Single Judge while passing the impugned on 06.04.2017 in W.P(MD)No.5917 of 2016, which is filed by the First Respondent/Writ Petitioner at Paragraph Nos.4 and 5 had observed the following and disposed of the Writ Petition by issuing necessary directions thereto:

***"4.The learned Counsel for the petitioner submitted that the petitioner is not given any retirement benefits and hence, the writ petition may be allowed with a direction to the respondents to disburse the terminal benefits of the petitioner, within the time stipulated by this Court.***

***5. Considering the fact that the petitioner is yet to receive pension despite his retirement about two and a half years back, the first respondent is directed to settle all the terminal benefits of the petitioner, including his monthly pension from the date of superannuation, his gratuity, commutation, leave salary, social security amount and other monetary benefits with interest at the rate of 6% per annum, for the delayed payment within a period of eight weeks from the date of receipt of a copy of this order. If the respondent Nos.1 and 3 fail to disburse the amount pursuant to this order, it made clear that the respondents are liable to pay interest at the rate of 18% per annum, for any further delay."***

3. Being aggrieved with the order dated 06.04.2017 in W.P(MD)No.5917 of 2016 passed by the Learned Single Judge in directing the First Appellant/First Respondent to settle all the terminal benefits of the First Respondent/Writ Petitioner including his monthly pension from the date of superannuation, his Gratuity, Commutation, Leave Salary, Social Security Amount and other monetary benefits with interest at the rate of 6% per annum



etc., the Appellants/Transport Corporation/R-1 and R-2 have filed the instant Writ Appeal mainly on the ground that the Labour Court has taken a lenient view while passing the award dated 14.07.2009 in I.D.No.267 of 2001 on the file of the Labour Court, Madurai, to the effect that the punishment of dismissal is too harsh and disproportionate. As a matter of fact, it is represented on behalf of the Appellants that the Labour Court had directed the Management/Transport Corporation to reinstate the First Respondent/Writ Petitioner into service with continuity of service, but without back wages.

4. The Learned Counsel for the Appellants projects an argument that the Learned Single Judge should have seen that since the charges were proved, the order of punishment would not have been set aside and since the misappropriation charges are severe in nature, the Labour Court should have confirmed the order of dismissal.

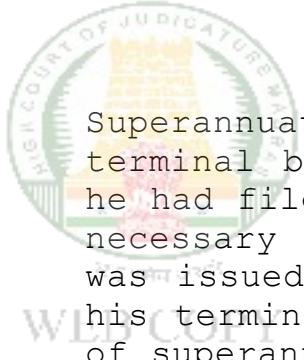
5. It comes to be known that after passing of the award in I.D.No.267 of 2001 dated 14.07.2009, the Appellants/Transport Corporation filed W.P(MD)No.13418 of 2010 before this Court and this Court had dismissed the Writ Petition on 21.02.2014 thereby confirming the award of the Labour Court dated 14.07.2009 passed in I.D.No.267 of 2001.

6. The main plea taken on behalf of the Appellants/Transport Corporation is that as against the order of dismissal of the Writ Petition(MD)No.13418 of 2010, dated 21.02.2014, the Appellants/Transport Corporation had preferred a Writ Appeal in W.A(MD)SR.No.21880 of 2017 on the file of this Court and in view of the pendency of the said Writ Appeal, the First Respondent/Writ Petitioner is not entitled to be paid the terminal benefits due to him.

7. There is no two opinion of a prime fact that the First Respondent/Workman filed W.P(MD)No.5917 of 2016 before this Court seeking retirement benefits including his monthly pension from the date of superannuation and the same was disposed of with necessary directions being issued to the Appellants/Transport Corporation to disburse the retirement benefits in question.

8. Finally, it is the contention of the Appellants that the Learned Single Judge should have seen that after having accepted the charges against the First Respondent/Writ Petitioner, the Labour Court had set aside the order of dismissal, which is not acceptable one.

9. Admittedly, the 'Award' dated 14.07.2009 in I.D.No.267 of 2001 on the file of the Labour Court, Madurai, has become final between the parties. There is no quarrel over the fact that the First Respondent/Writ Petitioner/Workman attained the age of

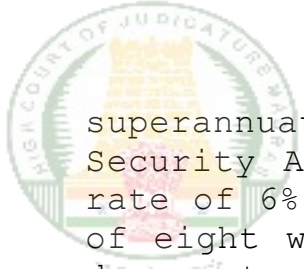


Superannuation on 31.08.2014. The fact of the matter is that his terminal benefits till date have not been settled and therefore, he had filed W.P(MD)No.5917 of 2016 before this Court and obtained necessary orders on 06.04.2017 whereby and whereunder a direction was issued to the First Appellant/First Respondent to settle all his terminal benefits including his monthly pension from the date of superannuation, his Gratuity, Commutation, Leave Salary, Social Security Amount and other monetary benefits with interest at the rate of 6% per annum etc.

10. In this connection, this Court pertinently points out that strictly speaking, the award of the Labour Court, Madurai dated 14.07.2009 passed in I.D.No.267 of 2001, should have been implemented by the Appellants/Respondent Nos.1 and 2 as per Section 29 of the Industrial Disputes Act, 1947. It cannot be gainsaid that non-implementation of an 'Award' by an employer is a continuous offence as per the decision reported in **(2001) III LLJ (Suppl.) Page 1083 (Management of Naga Theatre v. Sri R.Raja)** .

11. The Industrial Disputes Act, 1947 was enacted to provide a speedy, inexpensive and effective forum for resolving the disputes arising between the 'Workmen' and the 'Employers'. As a matter of fact, the Industrial Disputes Act aims at ensuring industrial harmony by providing an adjudicating machinery for industrial peace.

12. In fact, Section 29 of the Industrial Disputes Act, 1947 speaks of 'Penalty for breach of settlement or award'. The non-payment or not settling the terminal benefits due to be paid to the First Respondent/Writ Petitioner will amount to deprivation of livelihood enshrined under Article 21 of the Constitution of India. When the First Respondent's dismissal from service order dated 13.03.1992 (with effect from 16.03.1992) was set aside by the Labour Court, Madurai, then, he is entitled to be reinstated with continuity of service, but without back wages. Unfortunately, the Appellants/Transport Corporation had not reinstated the First Respondent/Writ Petitioner, who attained the age of superannuation on 31.08.2014. To put it succinctly, when the First Respondent/Writ Petitioner had attained the age of superannuation on 31.08.2014 and when the Learned Single Judge had also disposed of the Writ Petition by issuing necessary directions in W.P(MD)No. 5917 of 2016 (filed by the First Respondent/Writ Petitioner seeking retirement benefits), then, nearly 8 years, 4 months and 21 days have elapsed, then, it is incumbent on the part of the Appellants/Transport Corporation to settle the terminal benefits due to be paid to the First Respondent/Writ Petitioner without any further loss of time and in this regard, the view taken by the Learned Single Judge in directing the First Appellant/First Respondent to settle all terminal benefits, including the First Respondent/Writ Petitioner's monthly pension from the date of



superannuation, his Gratuity, Commutation, Leave Salary, Social Security Amount and other monetary benefits with interest at the rate of 6% per annum etc., for the delayed payment within a period of eight weeks from the date of receipt of a copy of this order, does not suffer from any serious material irregularity or patent illegality in the eye of Law. Viewed in that perspective, the Writ Appeal sans merits.

13. In view of the foregoing, the Writ Appeal is dismissed leaving the parties to bear their own costs. The order passed by the Learned Single Judge in W.P(MD)No.5917 of 2016 dated 06.04.2017, is affirmed by this Court, of course, for the reasons assigned in this Writ Appeal. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The Tamil Nadu State Transport Corporation (Madurai) Ltd.,  
Represented by its Managing Director,  
Bypass Road,  
Madurai.
2. The General Manager,  
The Tamil Nadu State Transport Corporation (Madurai) Ltd.,  
Madurai Region,  
Bypass Road,  
Madurai.
3. The Administrator,  
Tamil Nadu State Transport Corporation Employees Pension Fund Trust,  
Thiruvalluvar Illam,  
Pallavan Salai,  
Chennai-2.

+1cc to Mr.A.Rahul , Advocate Sr.No.91144  
PM  
VB/SKN/RSK/SAR3/27/12/2017/5P/5C