



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2017

CORAM:

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.A.(MD)No.518 of 2017

P.Rajendran

.. Appellant

Vs.

The General Manager,
Tamil Nadu State Transport Corporation,
Kumbakonam Ltd.,
Maruthupathi, Karaikudi,
Sivagangai District

.. Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, to call for the records in Review Application (MD)No.9 of 2017 and set aside the order dated 02.03.2017 conforming the order passed in Writ Petition (MD) No.19516 of 2014 dated 10.01.2017.

Rev.Application (MD)No.9/2017:-

Review Application is filed under Article 226 of the Constitution of India, praying to review the Order of this Court dated 10.1.2017 made in WP(MD)No.19516 of 2014.

Prayer in WP(MD)No.19516/2014: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondent to sanction all service benefits to the petitioner by taking note of the petitioner's initial appointment from 02.09.1974 with continuity of service from the year 1996 and subsequently calculate the pension and sanction arrears of pension and other service and retirement benefits in view of the Award in I.D.No.85 of 2004 dated 15.04.2006 on the file of the Labour Court, Madurai by considering the petitioner's representation dated 12.11.2010 and subsequent representation dated 11.07.2012 within the period stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen

For Respondents : Mr.K.Sathyasingh

ORDER

[Order of the Court was made by G.R.SWAMINATHAN, J.]

The Appellant herein was employed in the respondent corporation. He was dismissed from service by an order dated



27.08.1996. He filed I.D.No.85 of 2004. It was disposed of on 15.04.2006. The appellant was directed to be reinstated with continuity of service but without backwages. He was however awarded three years stoppage of increment with cumulative effect. The appellant was reinstated on 26.08.2006 and he retired on 21.02.2009.

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2.The respondent corporation did not settle the retirement benefits of the appellant in accordance with law. He therefore filed W.P.(MD)No.19516 of 2014. The said Writ Petition was allowed on 10.01.2017. Aggrieved by the same, the respondent corporation filed Rev.Appl.No.9 of 2017. The learned Judge partly allowed the review application by directing the respondent herein, to adjust the a sum of Rs.3,40,425/- and to pay the remaining amount. Aggrieved by this order dated 02.03.2017 this Writ Appeal has been filed.

3.The learned Counsel for the appellant would contend that the principal amount payable by the appellant is only a sum of Rs.81,967/- as on 31.01.2003 and that the remaining amount of Rs.2,58,558/- represents the interest portion. Since the issue relates to settlement of the terminal benefits of the appellant, we are of the view that the interest of justice would be served by permitting the respondent to adjust the said sum of Rs.81,967/- alone.

4.The learned counsel for the appellant pointed out that the appellant was allowed to retire on the ground that he was liable to make any payment. Therefore, it is not open to the respondent corporation to raise a demand that in the review application that the appellant must pay a sum of rupees 3,40,425/-. However, the appellant himself would fairly admit that he is liable to pay a sum of Rs.81,967/-. Since the appellant himself admitted his liability we are of the view that he must be directed to make the said payment.

5.We constrained to interfere as regards the interest portion alone. This Writ Appeal is partly allowed by modifying the order dated 02.03.2017 made in Rev.Applc.(MD)No.9 of 2017. The respondent corporation is permitted to adjust a sum of Rs.81,967/-. In all other respects the order originally made in the writ petition would stand.

6.This Writ Appeal is accordingly allowed in part. No costs.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

+One cc to Mr.A.Haja Mohideen, Advocate, SR.No.79223

+One cc to Mr.K.Sathiya Singh, Advocate, SR.No.79170

TA/MM

RL/3C/2P/KK/SAR1/11/1/2018

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