



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2017

CORAM:

WEB COPY

THE HONOURABLE MS.INDIRA BANERJEE, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.A.[MD].No.702 of 2017

and

C.M.P(MD).No.5457 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
[Madurai] Limited, Bye-pass Road,
Madurai 625 010.

: Appellant / Respondent 2

Vs.

1. The Secretary,
Transport Department,
Government of Tamil Nadu,
St.George Fort, Chennai.

2.S.K.Chelliah

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 11.04.2012 made in W.P.(MD).No.1298 of 2011, on the file of this Court.

Prayer in WP(MD). 1298/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus to direct the respondents to take the period of service of the petitioner as 26 years instead of 18 years as taken by the respondent in calculating the pension on the basis of the award passed by the Labour Court, Madurai in I.D.No.275/1990 and order passed in Madras High Court Judicature W.P.No.11972/1993.

For Appellant : Mr.A.P.Muthupandian
Standing Counsel

For Respondent No.2 : Mr.C.Arulmozhi Raja Shankar
in SR Stage

JUDGMENT

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

Heard Mr.A.P.Muthupandian, learned Standing Counsel appearing for the appellant and Mr.C.Arulmozhi Raja Shankar, learned counsel appearing for the first respondent.



2. The Writ Appeal is directed against the order dated 11.04.2012 made in W.P.(MD).No.1298 of 2011.

3. The said Writ Petition was filed by the second respondent herein, directing the appellant to reckon the period of his service with the appellant as 26 years, instead of 18 years, for calculating pension, on the basis of the Award passed by the Labour Court, Madurai, in I.D.No.275 of 1990 and the direction issued by the Principal Seat of this Court in W.P.No.11972 of 1993.

4. The second respondent was dismissed from service and the order of dismissal was challenged by him by raising an Industrial Dispute before the Labour Court by filing I.D.No.275 of 1990. The Labour Court by Award dated 01.12.1992, set aside the order of dismissal, directed reinstatement of the second respondent in service with continuity of service, without back wages. The appellant herein challenged the said Award by filing W.P.No.11972 of 1993 and during the pendency of the said Writ Petition, the second respondent herein was reinstated in service as Driver on 17.11.1995. Ultimately, the said Writ Petition filed by the appellant was dismissed, on 06.06.2000. The said order has become final. As a consequence of the said order, the second respondent is deemed to have been an employee of the appellant and is entitled for the entire length of service to be counted for all purposes except back wages. Therefore, the Writ Court held that he is entitled for grant of pension under the Contributory Pension Scheme and the reason for keeping him out of employment was not attributable to the employee, but, on account of the disciplinary proceedings initiated, which was set aside by the Labour Court and confirmed by this Court in W.P.No.11972 of 1993, dated 06.06.2000. Thus, we find that there is no error in the order passed by the learned Single Bench. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

The Secretary, Transport Department,

Government of Tamil Nadu, St.George Fort, Chennai.

+1 CC to M/s.C.ARUN MOZHI RAJASHANKAR, Advocate, SR No. 61449/17.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 61880.

NB

PSM/MR-KKR/SAR2/06.07.2017/2P/4C