



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.07.2017

CORAM :

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

W.A(MD)No.855 & 856 of 2017
and
C.M.P.(MD).No.5791 & 5792 of 2017

W.A(MD)No.855 of 2017

1.The Managing Director,
Tamil Nadu State Transport Corporation,
(Madurai) Ltd, Bye Pass Road, Madurai - 625 016.

2.The General Manager,
Tamil Nadu State Transport Corporation,
(Madurai) Ltd, Dindigul Region,
Dindigul - 624 004.

3.The Deputy Manager (Accounts),
Tamil Nadu State Transport Corporation,
(Madurai) Ltd,
Dindigul Region,
Dindigul - 624 004.

... Appellants

vs.

A.Murugesan, (Driver)

... Respondent

Prayer in W.A(MD)No.855 of 2017 : Writ Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order, dated 02nd March, 2015 passed in W.P(MD).No.106 of 2013 on the file of this Court.

Prayer in WP(MD). 106/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order of rejection of pensionary benefits passed by the 3rd respondent in his Letter No.jmngfh(KJ)/jpP.k/kfJ/x/166, dated 23.06.2005 and confirmed by the 2nd respondent in his Letter No.CAD/PF/50 dated 02.08.2012 and quash the same and consequently direct the respondents to sanction pension leave salary and other retirement benefits and also to settle the Post Retirements



Benefits of Rs.67,800/- under the Post Retirement Benefit Scheme along with interest to the petitioner for his 16 years of qualifying service.

W.A(MD)No.856 of 2017

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1.The Managing Director,
Tamil Nadu State Transport Corporation,
(Madurai) Ltd, Bye Pass Road, Madurai - 625 016.

2.The General Manager,
Tamil Nadu State Transport Corporation,
(Madurai) Ltd, Dindigul Region,
Dindigul - 624 004.

... Appellants

vs.

M.Rajeswaran, (Driver)

... Respondent

Prayer in W.A(MD)No.856 of 2017 : Writ Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order, dated 02nd March, 2015 passed in W.P(MD).No.461 of 2013 on the file of this Court.

Prayer in WP(MD). 461/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order of rejection of pensionary benefits passed by the 2nd respondent in his letter Ref.CAD/PF 51 dated 02.08.2012 and quash the same and consequently direct the respondents to sanction pension, leave salary and other retirement benefits and also to settle the Post Retirement Benefit of Rs.67,800/- under the Post Retirement Benefit Scheme along with interest to the petitioner for his 14 years of qualifying service.

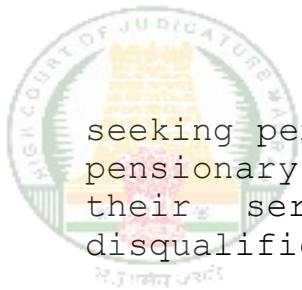
For Appellants	: Mr.A.P.Muthupandian
in both appeals.	
For Respondent	: Mr.S.Govindan
in both appeals.	

J U D G M E N T

(Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.,**)

The Tamil Nadu State Transport Corporation is on appeal challenging the common order dated 02nd March, 2015, allowing WP (MD).Nos.106 and 461 of 2013.

2.The respondents in these writ appeals filed their respective writ petitions, challenging the orders rejecting their claim



seeking pensionary benefits. The only ground for rejection of the pensionary benefits is that the writ petitioners had resigned from their services and that therefore that would act as a disqualification for claiming pensionary benefits.

3. In their affidavit filed in support of their respective writ petitions, the writ petitioners specifically pleaded that they were constrained to resign their jobs on account of their medical condition. The resignations submitted by the writ petitioners were duly accepted by the appellant corporation and the writ petitioners were allowed to retire from service.

4. The writ petitions were filed in the year 2013 and were allowed only on 02nd March, 2015. The appellant corporation did not choose to file any counter denying the stand taken by the writ petitioners that they resigned on health grounds. In these circumstances, the question arose whether the writ petitioners could be deprived of their pensionary benefits only on the ground that they had resigned.

5. The learned single Judge, after referring to the decision of the Honourable Supreme Court reported in AIR 1990 SC 1808 (M/s. J.K. Cotton spg. & wvg. Mills Company Ltd., Kanpur Vs. State of U.P) and the decision reported in (2008) 3 MLJ 241 (DB) (D.Padmini Vs. Registrar General, High Court, Madras), set aside the orders impugned in the writ petitions and allowed the writ petitions and remitted the matter to the file of the appellant corporation to consider the claim of the writ petitioners seeking pension and pass appropriate orders. It was specifically held that the ground of resignation set out as a reason for disqualification for getting pensionary benefits was unsustainable.

6. Assailing the correctness of the said decision, the instant writ appeals have been preferred.

7. The learned counsel appearing for the appellant corporation pointed out that the case of the writ petitioners would be covered by Tamil Nadu State Transport Corporation Pension Fund Trust Rules and that therefore, the learned single Judge was not right in following the decision reported in (2008) 3 MLJ 241 (DB) (D.Padmini Vs. Registrar General, High Court, Madras).

8. The learned counsel appearing for the writ petitioners / respondents justified the order made in the writ petitions.

9. We have carefully gone through the materials on record.



10.It is relevant to point out that the learned single Judge was very much conscious that the case of the writ petitioners is to be adjudicated only with reference to Tamil Nadu State Corporation Pension Fund Trust Rules. This is evident from what is set out in Para.10 of the order made in the writ petitions. We entirely agree with the reasoning set out therein. This is a case of resignation on health ground. The appellant corporation also chose to accept the resignation submitted by the writ petitioners.

11.In these circumstances, the act of resignation can very well be construed as an act of voluntary retirement. This proposition has been laid down in the decision of the Honourable Supreme Court reported in AIR 1990 SC 1808 (M/s.J.K.Cotton spg & wvg. Mills Compnay Ltd., Kanpur Vs. State of U.P). As already pointed out, the plea of resignation on medical ground was not controverted by the appellant corporation before the learned single Judge.

12.We therefore find no justification to interfere with the common order made in W.P(MD).Nos.106 and 461 of 2013. Confirming the order dated 02nd March, 2015 made in W.P(MD).Nos.106 and 461 of 2013, we dismiss the instant writ appeals. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

+2cc to M/S.S.Govindan, Advocate SR.No.63281,63282

W.A(MD)No.855 & 856 of 2017
and
C.M.P.(MD).No.5791 & 5792 of 2017
 04.07.2017

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JM/MR KKR/SAR 3/17.07.2017/4P/3C