



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :31.08.2017

CORAM:

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

W.A. (MD) No.1392 of 2016
and
C.M.P. (MD) No.10164 of 2016

1. The Managing Director,
Tamil Nadu State Transport Corporation,
Madurai Division, By-Pass Road, Madurai.
2. The Administrator,
Tamil Nadu State Transport Corporation,
Employee's Pension Fund Trust,
Thiruvalluvar House,
Pallavan Salai, Chennai.

... Appellants/ 2nd & 3rd Respondents

Vs.

1. M.Kalaiselvi

(Petitioner substituted as LR for the deceased
petitioner as per order of the Court dated
08.10.2012 in M.P. (MD).No.1 of 2012)

... Respondent/Petitioner

2. The Deputy Secretary to Government,
Transport (D) Department,
Secretariat, Chennai-600 009.

... Respondent/1st Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying to set aside the order dated 22.02.2013 passed in W.P.No.2115 of 2007 on the file of this Court.

Prayer in WP(MD). 2115/ 2007 :

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 of the 3rd respondent in Ir. No. 26/P2/TNSTCEPFT/2006 -5200 dt. 05/12/2006 to quash the same and consequently direct the 2nd respondent to sanction the service pension to the petitioner.



For Appellants

: Mr.A.Jeyaram

For Respondent No.1

: Mr.N.Sundareshan

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JUDGMENT

[Judgment of the Court was delivered by G.R.SWAMINATHAN, J.]

This writ appeal is directed against the order dated 22.02.2013, allowing W.P.(MD).No.2115 of 2007, filed by the first respondent herein.

2. The said writ petition was originally filed by one S.Madavan, husband of the first respondent herein. During the pendency of the proceedings, he passed away and the first respondent, as his legal representative, came on record. The facts set out in the Writ Petition are that the said Madavan was working as Cashier in Tamil Nadu State Transport Corporation. He was suspended from service, by order dated 15.10.1999, and thereafter he was also terminated from service. He challenged the order of termination by raising Industrial Dispute before the Labour Court Madurai in I.D.No.102 of 2001 and by order dated 29.11.2004, the Labour Court, Madurai set aside the order of dismissal and converted the same into one of simple discharge.

3. Thereafter, the said Madavan made a representation to the appellant Corporation for settling his Provident Fund, Gratuity and other retirement benefits. The appellant Corporation by order dated 05.12.2006, denied the said request. Thereupon, W.P(MD).No.2115 of 2007, came to be filed. The learned single Judge by order dated 22.02.2013, allowed the writ petition. Aggrieved by the same, this intra-Court appeal has been filed by Transport Corporation.

4.Heard the learned counsel for the parties.

5.The facts are not in dispute. The Labour Court set aside the order of dismissal from service and modified the same into one of simple discharge. The award dated 29.11.2004 passed by the Labour Court, Madurai, in favour of the said S.Madavan had become final. It was not challenged by the appellant Corporation. The order of dismissal would operate as a disqualification for getting pensionary benefits. But dismissal is one thing and simple discharge is another. The learned single Judge rightly held that the terms "simple discharge" and "Removal or dismissal from service" cannot be treated as equivalent. Therefore, the employee in question was held to be entitled to pension and the other terminal benefits. The writ petition was rightly allowed. We see no reason to interfere with the reasons assigned by the learned single Judge.



6. This Writ Appeal is without any merit and it stands dismissed. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Deputy Secretary to Government,
Transport (D)-Department,
Secretariat, Chennai-600 009.

+ 1 CC TO Mr.N.SUNDARESHAN, ADVOCATE IN SR No. 75628

DSS/KM

TE/JC/SAR-I : 13/11/2017 : 3P/3C

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