



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2017

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CORAM :

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

W.A. (MD) No.1112 of 2013

T. Krishna Pillai

... Appellant/Petitioner

Versus

1. The Secretary to Government,
Transport Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2. The Deputy Manager (Administration),
Tamil Nadu State Transport Corporation,
(Madurai) Limited,
Tirunelveli -3.

.. Respondents/Respondents

Writ Appeal is filed under Clause 15 of the Letters Patent Act to set aside the order passed in W.P.(MD)No.7282 of 2008, dated 01.10.2008.

Prayer in WP(MD). 7282/ 2008 :

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus to call for the records pertaining to the order of the second respondent in Letter No. 4595/admn. 9/TNSTC(M)/Ltd/2007 dated 11/06/2007 and quash the same and consequently direct the respondents to disburse the pensionary benefits to the petitioner.

For Appellant : Mr.S.Ramakrishnan

For Respondents : Mr.V.Muruganantham for R1
Additional Government Pleader
No Appearance for R2

**JUDGMENT**

(Judgment of the Court was delivered by T.S.SIVAGNANAM, J)

Heard, Mr.S.Ramakrishnan, learned counsel appearing for the appellant and Mr.V.Muruganantham, learned Additional Government Pleader, appearing for the first respondent. By consent, the writ appeal itself is taken up for final disposal.

2. The appellant is before this Court challenging the order passed in W.P.(MD).No.7282 of 2008, dated 01.10.2010. The said writ petition was filed by the appellant challenging the order passed by the second respondent/Deputy Manager (Administration), Tamil Nadu State Transport Corporation, Madurai Limited, in and which by the appellant's request for grant of pension was rejected.

3. We have carefully perused the order impugned before us and find that the reason for dismissal of the writ petition was on the ground that the writ petitioner opted to be governed by the existing terms and conditions and did not want to opt for the benefits under G.O.Ms.No.212, Transport Department, dated 28.03.1974. Therefore, the learned Single Judge was fully justified in holding that the writ petitioner/appellant cannot now take a different stand having exercised his option earlier. Hence, we have no other option except to dismiss the appeal confirming the order of the Writ Court.

4. During the course of arguments, the learned counsel for the appellant brought to our attention a recent Government Order in G.O.(3D) No.24, Transport (RW1) Department, dated 14.09.2015, in which it appears that similar such persons who have exercised option like the appellant had been granted pension.

5. On a reading of the said Government Order, it is seen that the Government decided to implement the judicial order which was passed in the case of one S.Thamburan, who was an employee under Operation Subordinate Service Rules, and who was working as a conductor in Nagercovil, Meenakshipuram Depot of the erstwhile Tamil Nadu State Transport Department.

6. Thus, taking note of the above facts, while dismissing the writ appeal, we leave it open to the appellant to approach the second respondent by way of representation in the light of G.O. (3D) No.24, Transport (RW1) Department, dated 14.09.2015 and it is open to the second respondent to consider the case of the appellant, if he is found to be otherwise eligible. We make it clear that we have not expressed any opinion on the appellant's entitlement to be treated on par with the beneficiaries of G.O. (3D) No.24, Transport (RW1) Department, dated 14.09.2015 .



7. In the result, the writ appeal is dismissed with the above observations. No costs.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Transport Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Deputy Manager (Administration),
Tamil Nadu State Transport Corporation,
(Madurai) Limited,
Tirunelveli -3.

+ 1 CC TO Mr.S.RAMAKRISHNAN, ADVOCATE IN SR No. 54225

JIKR/SSS

TE/JC : 08/05/2017 : 3P/4C

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