

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

RESERVED ON : 26.03.2018
DELIVERED ON : 04.06.2018

WEB COPY

CORAM**THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN****W.P. (MD) .No.4140 of 2018**

S.Moorthy

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Byepass Road, Madurai - 16.
2. The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Dindigul Region, Dindigul - 4.
3. The Administrator,
Tamil Nadu State Transport Corporation Employees
Pension Fund Trust, Thiruvalluvar Illam,
Pallavan Salai,
Chennai - 2.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to sanction Pension and other retirement benefits along with applicable rate of interest with effect from 05.07.2014 as per Rule 19 of the Tamil Nadu State Transport Corporation Employees Pension Fund Rules and in the light of the Judgment of this Court in W.A.(MD)Nos.855 and 856 of 2017, dated 04.07.2017.

For Petitioner : Mr.S.Govindan
For Respondents : Mr.A.P.Muthupandian,
Standing Counsel.

O R D E R

The petitioner was employed as a Driver in the respondents Corporation. He joined service on 29.01.1999. The petitioner's height is 186 centimeters. Therefore, he had difficulty in occupying the Driver seat in the Transport Corporation bus. He developed Back pain problem. He therefore gave a resignation letter on 23.08.2012. The petitioner also gave an undertaking on 28.09.2012, to the effect that he would not claim any alternative employment. In the meanwhile, his case was also referred to Medical Board. The Medical Board opined that the petitioner is suffering from back pain due to Annular Bulge at L4-5. The petitioner applied



for leave on and off. He gave one more representation dated 01.09.2013, praying for being relieved from the post of Driver and given an alternative employment. The petitioner was issued with a show cause notice for unauthorised absence on 04.10.2013. The petitioner submitted his explanation dated 16.10.2013.

WEB COPY

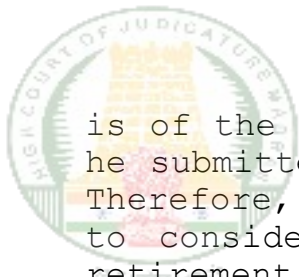
2. It is the case of the petitioner that even though his resignation letter was given on 23.08.2012, it was accepted only on 05.07.2014. The petitioner's retirement benefits were also not settled. He therefore submitted a representation dated 07.12.2017, for sanction of Pension and other benefits. Since the said representation was not considered, the present Writ petition has been filed.

3. Heard the learned counsel on either side.

4. The learned Standing counsel appearing for the Corporation as well as the third respondent Trust submitted that the petitioner's resignation letter was accepted and that therefore that operated as a forfeiture of his past services. A person who resigned from service, cannot claim pension and other benefits. Therefore, he prayed for dismissal of the Writ petition.

5. This Court is unable to agree with the said stand of the respondents. As rightly pointed out by the learned counsel appearing for the petitioner, the petitioner submitted a letter of resignation only on medical grounds. It is the specific case of the petitioner that the resignation letter was actually submitted as early as on 23.08.2012 and that it was accepted belatedly on 05.07.2014. The issue is in fact covered by the order dated 02.03.2015 made in W.P. (MD)Nos.106 and 461 of 2013. The Writ petitioners therein challenged the orders rejecting their claim seeking pensionary benefits. The only ground for rejection of the pensionary benefits was that they had resigned their services and therefore that would act as a disqualification for claiming pensionary benefits.

6. The learned Judge placing reliance on the decision of the Hon'ble Supreme Court reported in AIR 1990 SC 1808 in the case of M/s.J.K.Cotton Spg. and Wvg. Mills Company Ltd., Kanpur Vs. State of U.P., and the decision reported in (2008) 3 MLJ 241(DB) in D.Padmini Vs. Registrar General, High Court, Madras, set aside the orders of the Management and allowed the Writ petitions. The learned Judge also specifically referred to Tamil Nadu State Corporation Pension Fund Trust Rules and came to the conclusion that the case of resignation on health ground can be construed as an act of voluntary retirement. This decision was challenged by the Management of the Corporation by filing W.A.(MD)Nos.855 and 856 of 2017. The Hon'ble Division Bench of this Court dismissed the Writ Appeals. The case on hand is absolutely similar. The petitioner's health was above normal. Therefore, he developed certain health complications. That alone impelled him to submit his letter of resignation. If the petitioner is otherwise entitled to pensionary benefits, this Court



is of the view that the fact that he resigned from service and that he submitted a letter of resignation should not be put against him. Therefore, the Writ of Mandamus is issued directing the respondents to consider the case of the petitioner for pensionary and other retirement benefits.

WEB COPY

7. It is made clear that the petitioner shall be considered to have voluntarily retired on 05.07.2014. Even though the petitioner submitted a letter of resignation, the same shall be considered as a request seeking to go on Voluntary Retirement. His case shall be considered, accordingly. The respondents shall pass appropriate orders in this regard within a period of eight weeks from the date of receipt of a copy of this order.

8. The Writ petition is allowed in these terms. No costs.

Sd/-

Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

1. The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Byepass Road, Madurai - 16.
2. The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Dindigul Region, Dindigul - 4.
3. The Administrator,
Tamil Nadu State Transport Corporation Employees
Pension Fund Trust, Thiruvalluvar Illam,
Pallavan Salai,
Chennai - 2.

Order
made in

W.P. (MD) .No.4140 of 2018
04.06.2018

PMU

RAM/SV MMS/SAR 4/20.06.2018/3P/4C