



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2018

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WEB COPY

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD) No.815 of 2018

The State Transport and Transport Corporations
Retired Employees Welfare Association,
Nagercoil Branch, Ranithottam,
Nesamony Nagar, Nagercoil - 1,
Rep. by its Secretary
M.Sundarraaj

... Appellant/Petitioner

Vs.

1.The Government of TamilNadu,
Rep. by its Principal Secretary,
Transport Department,
Fort St. George, Secretariat,
Chennai - 600 009.

2.The Joint Secretary,
Transport Department,
Fort St. George, Secretariat,
Chennai - 600 009.

... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letter Patent against the order passed by this Court in W.P.(MD)No.3260 of 2018 dated 20.02.2018.

Prayer in WP(MD)No. 3260/ 2018 :

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 pertaining to the impugned order passed by the 2nd respondent in Letter No.8375/TPT/TBC-7/2017, dated 28.07.2017, quash the same and further direct the respondents to provide pension to the retired employees of the petitioner association by taking into account of their entire service and fix the pension based on the last drawn pay at the time of retirement as held by the Honble Supreme Court in Special Leave to Appeal (Civil)No.19016/2018, dated 07.02.2013 with interest, within the time frame.

For Appellant

: Mr.R.V.Rajkumar

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents

: Mr.N.Shanmugaselvam

Additional Government Pleader

**JUDGMENT**

(Judgment of the Court was delivered by M.M.SUNDRESH, J)

This is a third round of litigation, in which, the respondents are certainly involved. The only difference is that the present litigation is initiated by the association.

2.The sum and substance of the grievance of the appellant is that benefits have been folded out by the respondents only to those employees, who are parties to the writ petitions and writ appeals at the earlier point of time. Though the appellant has already got impleaded as a party in Special Leave to Appeal (Civil) No.19016 of 2008 and allowed to contest the case on merits and a direction was also issued by the Hon'ble Apex Court to extend the benefits to all the eligible employees, the said order was not implemented to part of the employees though every one was placed on the same footings. The learned Single Judge dismissed the writ petition inter-alia holding that the writ petition as filed is not maintainable as the appellant cannot canvas the case of workmen.

3.The learned counsel appearing for the appellant made reliance on the following decisions:

(i) **Mumbai Kamgar Sabha v. Abdulbhai Faizullabhai [(1976) 3 SCC 832]**.

(ii) **A.B.S.K. Sangh (Rly.) v. Union of India [AIR 1981 SC 298]**.

(iii) **Fertilizer Corpn. Kamagar Union v. Union of India [AIR 1981 SC 344]**.

(iv) **D.S. Nakara v. Union of India [AIR 1983 SC 130]**.

(v) **S.C. and Weaker Section Welfare Asscn. (Regd.) v. State of Karnataka [AIR 1991 SC 1117]**.

(vi) **State of Tamil Nadu v. Confederation of Joint Action Council of T.N. (DB) [1988 Writ L.R. 320]**.

(vii) **Vellakoil Vattara Vari Seluthuvor Nalvalvu Sangam v. The State of T.N. (DB) [2006 (2) CTC 705]**.

(viii) **AITUC v. Neyveli Lignite Corpn. Ltd., [(2010) 3 MLJ 1273]**.

(ix) **All India Lawyers' Union, Tamil Nadu v. Union of India & 2 others. [1992-2. L.W. 577]**.

(x) **T.N.P.D.O. Asscn. v. Secy. to Govt. of T.N.R.D. & L.A. Dept. (FB) [AIR 1989 MADRAS 224]**.

(xi) **Umesh Chand v. Krishi Utpadan Mandi Samiti (FB) [AIR 1984 ALLAHABAD 46]**.

(xii). **Confederation of Ex-Servicemen Assns. v. Union of India [(2006) 8 SCC 399]**, wherein the Hon'ble Apex Court has held as follows:

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23. We are also satisfied that the contention of the respondent is even otherwise not tenable at law. A



similar point came up before a Constitution Bench of this Court in the well known decision in D.S. Nakara v. Union of India, (1983) 1 SCC 305. There also, one of the petitioners was a Society registered under the Societies Registration Act, 1860. It approached this Court for ventilating grievances of a large number of old and infirm retirees who were individually unable to approach a court of law for redressal of their grievances. This Court held locus standi of the Society 'unquestionable'. In the present case, apart from the fact that a larger public issue and cause is involved, even individually, all associations are registered associations of ex-servicemen. The petitioner-Confederation representing those associations which is also registered, can certainly approach this Court by invoking the provisions of Part III of the Constitution. We, therefore, reject the preliminary objection raised by the respondents and hold that the petitioner-Confederation has locus standi to file the petition."

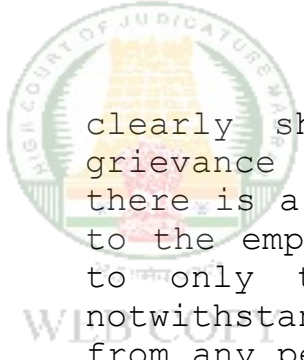
(xiii). **N.A.L. Layout Residents Assn. v. Bangalore Development Authority [(2017) 7 MLJ 221 (SC)]**, wherein the Hon'ble Supreme Court held as follows:

"29. The Association which has been espousing the cause of its members, who are allottees of different sites thus has sufficient locus to file this appeal. It is further relevant to note that against the judgment of the Division Bench, BDA has also filed SLP(C)Nos.20190-20191 of 2009. SLP(C) Nos.5911-5922 of 2010 were tagged with these vide order dated 15.02.2010. SLPs filed by BDA have been withdrawn on 02.03.2011. We thus find sufficient justification to accept the locus of the appellant to file the present appeal. We thus do not find any substance in preliminary objections raised by the learned counsel for the respondents."

Accordingly, it is submitted that certainly the association can represent the employees concerned in a representative capacity.

4.The learned Additional Government Pleader would submit that since the claim being belated, no discretionary power will have to be exercised.

5.A perusal of the order of the learned Single Judge would show that it was passed only on the premise that writ petition is not maintainable. With due respect, it is not a correct expression of statement of law. An association is a combination of members. The object of the association is to canvass and ventilate the grievance of the members. The appellant concerned is only qua employees of the respondents. The object is also to take care of the interest of the employees, who are members of the appellant. The decisions referred to by the learned counsel appearing for the appellant including that of the Hon'ble Apex Court would also



clearly show that the association can certainly take up the grievance of its members. The grievance of the appellant is that there is a partial implementation of the order passed by the Court to the employees. Though they are placed similarly it was applied to only to those filed the writ petition or writ appeals, notwithstanding the general direction issued. Therefore, looking from any perspective, this Writ Petition is maintainable.

6. In such view of the matter, this Writ Appeal is allowed and the order of the learned Single Judge in W.P.(MD) No.3260 of 2018 dated 20.02.2018 is set aside and the Writ Petition is remanded to the learned Single Judge, who is dealing with the labour and service for hearing by 21.08.2018. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Principal Secretary to Government of TamilNadu,
Transport Department,
Fort St. George, Secretariat,
Chennai - 600 009.
2. The Joint Secretary to Government of TamilNadu,
Transport Department,
Fort St. George, Secretariat,
Chennai - 600 009.

Copy To:-

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

- + 1 CC TO Mr.R.V.RAJKUMAR, ADVOCATE IN SR No. 77998
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 78407

SJ
TE/RP/SAR-1 : 21/08/2018 : 4P/6C

W.A. (MD) No.815 of 2018
10.08.2018