

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.21771 of 2011

1.S.S.Mani (Deceased)
2.T.Indira
3.M.Pradeep Kumar
4.M.Praveen Kumar

... Petitioners

P2 to P4 are substituted as L.Rs of the deceased P1
vide order dated 12.02.2019 in W.M.P.No.38483 of 2018

Vs

1.Tamil Nadu State Transport Corporation Limited,
Rep by its Managing Director,
Coimbatore Division-I,
M.T.P.Road, Coimbatore 641 043.

2.The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division-I,
Coimbatore.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records and quash the order of the second respondent in 3060/E01/PD-II/TNSTC (CBE)/08 dated 21.01.2008 and direct the first respondent to accept the petitioner's applications dated 01.09.2007 and 01.11.2007 seeking voluntary retirement with effect from 22.03.2008 and pay all the retirement benefits to the petitioner as provided under the voluntary retirement scheme along with an interest at the rate of 18% per annum.

For Petitioners : Mr.K.Surendar

For Respondents : Mr.R.Balasubramaniam for
Mr.T.Chandrasekaran

O R D E R

The present writ petition has been filed against the order of the second respondent in 3060/E01/PD-II/TNSTC (CBE)/08 dated

21.01.2008 and direct the first respondent to accept the petitioner's applications dated 01.09.2007 and 01.11.2007 seeking voluntary retirement with effect from 22.03.2008 and pay all the retirement benefits to the petitioner as provided under the voluntary retirement scheme along with an interest at the rate of 18% per annum.

2. The grievance of the petitioners is that the first petitioner has submitted voluntary retirement on completion of qualifying years of service. However, the same was rejected by the Corporation vide its order dated 21.01.2008. Subsequently, it appears that he has submitted his resignation letter on 08.01.2008 and the resignation letter was accepted by the Corporation on 22.03.2008 and he has been paid all the terminal benefits due to him on his resignation.

3. The writ petition has been filed in the year 2011, seeking to challenge the rejection of the first petitioner's application for voluntary retirement dated 21.01.2008. This Court is unable to appreciate the challenge in the writ petition to consider his request for voluntary retirement as early as on 21.01.2008, when the challenge is made only in 2011. Even otherwise, when the first petitioner has decided to resign from service of the Corporation in 2008, which has been accepted by the Corporation and he was also relieved from service with all terminal benefits, now, it is not open to him to claim for voluntary retirement with retrospective effect from 21.08.2008. When the first petitioner had received all the terminal benefits on his resignation, it is not open to him to approach this Court stating that he should be permitted to retire voluntarily under the scheme floated by the Corporation, in this regard.

4. On behalf of the respondents, counter affidavit has been filed. The learned counsel appearing for the respondents would submit that although the first petitioner was employed as conductor earlier, he was appointed as fresh entrant as Senior Superintendent on 01.01.1994. He would also submit that when the application for voluntary retirement was submitted, he has not completed the qualifying years of service in order to make him eligible to go on voluntary retirement.

5. At this, the learned counsel for the petitioners would submit that the first petitioner's earlier employment as conductor ought to have been counted by the Corporation while considering his request for voluntary retirement.

6. However, this Court is of the considered view that once the employee himself has tendered his resignation and his request for voluntary retirement is not considered favourably,

it is not for this Court to adjudicate upon the rival submissions at this distance of time. Whether the earlier employment as conductor could be counted or not for the purpose of making him eligible for voluntary retirement, cannot be decided in this case, since the first petitioner himself had chosen to tender his resignation and taken all the retirement benefits. In such view of the matter, without dealing with the above aspect, this Court finds that this writ petition as it is, is not maintainable and at this distance of time, no relief as prayed for could be granted and therefore, the same is liable to be dismissed.

7. In view of the above, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gsk

To

1.The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Coimbatore Division-I,
M.T.P.Road, Coimbatore 641 043.

2.The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division-I,
Coimbatore.

+1 cc to Mr.T.Chandrasekaran, Advocate, Sr.No. 27803

+1 cc to Mr.K.Surendar, Advocate, Sr.No. 27589

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VGII(CO)
CSL/07.05.2019

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