

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2019

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Appeal No.728 of 2017

D.S.Natesan

...Appellant

-Vs-

1. Principal Secretary to Government,
Transport Department,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.
 2. The Managing Director,
State Express Transport Corporation,
Tamil Nadu Limited,
Pallavan Salai, Chennai - 600 002.
 3. The General Manager (O & A)
State Express Transport Corporation,
Tamil Nadu Limited,
Pallavan Salai, Chennai - 600 002.
 4. Senior Deputy Manager (HRD)
State Express Transport Corporation,
Tamil Nadu Limited,
Pallavan Salai, Chennai - 600 002.
 5. M.Ramaiah Pillai
Superintendent,
State Transport Corporation (CNA)
Anna Nagar Depot, Chennai - 600 040.
 6. L.Srinivasan
 7. Mrs.L.Sumathi
 8. Kuppusamy
 9. Raja Deivanayagam
- ..Respondents

APPEAL filed under Clause 15 of the Letters Patent to set aside the order passed in W.P.No.8928 of 2017 dated 13.04.2017.

Prayer in W.P.No.8928 of 2017 :- Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 1st and 2nd respondents to treat the petitioner had retired on 31.5.2016 as Superintendent and consequently direct the 1st and 2nd respondents to pay a sum of Rs.4,58,478/- to the petitioner being the monetary benefits including pensionary benefits gratuity etc. with effect from 10.9.2013 till the date of retirement on 31.5.2016.

For Appellant : Mr.D.Rajagopal

For Respondents : Mrs.A.Sri Jayanthi, Spl.G.P. - R1
Mr.P.Kannan Kumar - R2 to R4
Not ready in notice - R5 to 9

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.,)

The Writ Petition filed by the appellant was dismissed by the learned single Judge with an observation that he has to knock the doors of the Labour Court, Chennai. Feeling aggrieved by the said order, the unsuccessful Writ Petitioner has come up with this intra Court appeal.

2. We have heard the learned counsel for the appellant. We have also heard the learned Standing Counsel for the State Express Transport Corporation and the learned Special Government Pleader on behalf of the State.

3. The appellant has filed a Writ Petition before the Writ Court for issuance of a Writ of Mandamus directing the respondent Nos.1 and 2 herein to treat him as retired on 31.05.2016 as Superintendent and consequently direct them to pay a sum of Rs.4,58,478/- to him, being the monetary benefits including pensionary benefits, gratuity, etc. for the period from 10.09.2013 to 31.05.2016, the date on which he attained superannuation.

4. The question as to whether the appellant is entitled to invoke the Writ jurisdiction should be decided on the basis of the materials available on record. The learned single Judge appears to have dismissed the Writ Petition during the time of admission, without even directing the respondents to submit the factual particulars to decide as to whether a mandamus could be issued. It cannot be said that in all matters, the party should approach the Labour Court. When there are materials to show that a Writ Petition would lie, the merits of the matter should be considered. We are therefore of the view that the impugned order deserves to be set aside.

5. The order dated 13.04.2017 is set aside and the Writ Petition in W.P.No.8928 of 2017 is restored to file. We direct the Tamil Nadu State Express Transport Corporation to file a counter affidavit taking into account the contentions taken in the affidavit filed in support of the Writ Petition so as to enable the learned single Judge to decide the matter on merits.

6. The intra Court appeal is allowed as indicated above. No costs.

sl

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Transport Department,
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Pallavan Salai, Chennai - 600 002.
4. Senior Deputy Manager (HRD)
State Express Transport Corporation,
Tamil Nadu Limited,
Pallavan Salai, Chennai - 600 002.

+1cc to Mr.D.Rajagopal, Advocate, SR.No.64164
+1cc to Mr.P.Kannan Kumar, Advocate, SR.No.63958
+1cc to the Govt.Pleader, Vide Sr.No.64215

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Kak(17/09/2019)