

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2019

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.34426 of 2018

G.Kumaresan

....

Petitioner

Vs

1. The Manager
Tamilnadu state Transport corporation
Mayiladuthurai Branch Nagapattinam Zone
Nagapattinam District

2. Sriram City Union Finance Limited
No.125 JJ Plaza building 2nd floor
2nd road Mayiladuthurai -609001
Nagapattinam District

3 B.K.Rajkumar

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to disburse the terminal benefits of the petitioner which was due and payable to the petitioner by the first respondent on the date of the petitioner's retirement ie, on 30.11.2017 forthwith on the basis of the petitioner's representation dated 24.04.2018.

For Petitioners: Mr.S.Giritharan

For Respondent : Mr.P.Kannan Kumar,
Standing Counsel

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O R D E R

The petitioner worked as conductor in Tamil Nadu State Transport Corporation. He retired from service on 30.11.2017. While in service, the petitioner stood as guarantor for the loan that was availed by the third respondent, who did not repay the amount and therefore proceedings were initiated against him and the arbitration award came to be passed in A.C.P.No.296 of 2009 and based on the award, the second respondent filed E.P.No.48 of 2012 before the Principal District Court, Nagapattinam for a

total sum of Rs.5,60,222/- seeking for attachment of the third respondent's salary. The petitioner was set exparte in the said E.P.No.48 of 2012 and therefore, attachment of the salary of the petitioner to the tune of Rs.2808/- was ordered. Accordingly, the said sum was deducted every month from the salary of the petitioner from March 2013 onwards till the date of his retirement. The petitioner requested for disbursement of his retirement benefits, which was denied and hence the petitioner has filed the present writ petition.

2. Learned counsel for the petitioner submits that as per the order in the Execution Petition, the salary alone was ordered to be attached and for the remaining amount there is no bar for disbursement. However, despite several representations, the petitioner's terminal benefits were not settled. Learned counsel further submits that when there is no specific arbitral award or decree for attachment of the terminal benefits of the petitioner after his retirement, the same cannot be attached.

3. Mr.P.Kannan Kumar, learned Standing Counsel takes notice for the respondents. Heard the learned counsel for both sides and perused the materials placed on record.

4. A perusal of the execution petition in E.P.No.48 of 2012 would go to show that the relief sought for is that the salary of the petitioner has to be attached. The petitioner Kumaresan has retired from service as early as on 30.11.2017, and therefore the question of attachment of salary, which did not enure to the petitioner after his retirement, does not arise for consideration. Under the circumstances, the grievance of the petitioner seeking disbursement of his retirement benefits seems justifiable. Hence, the respondents are directed to disburse the terminal benefits of the petitioner which was due and payable to the petitioner by the first respondent on the date of the petitioner's retirement ie, on 30.11.2017 on the basis of the petitioner's representation dated 24.04.2018, within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is ordered accordingly. No costs.

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Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

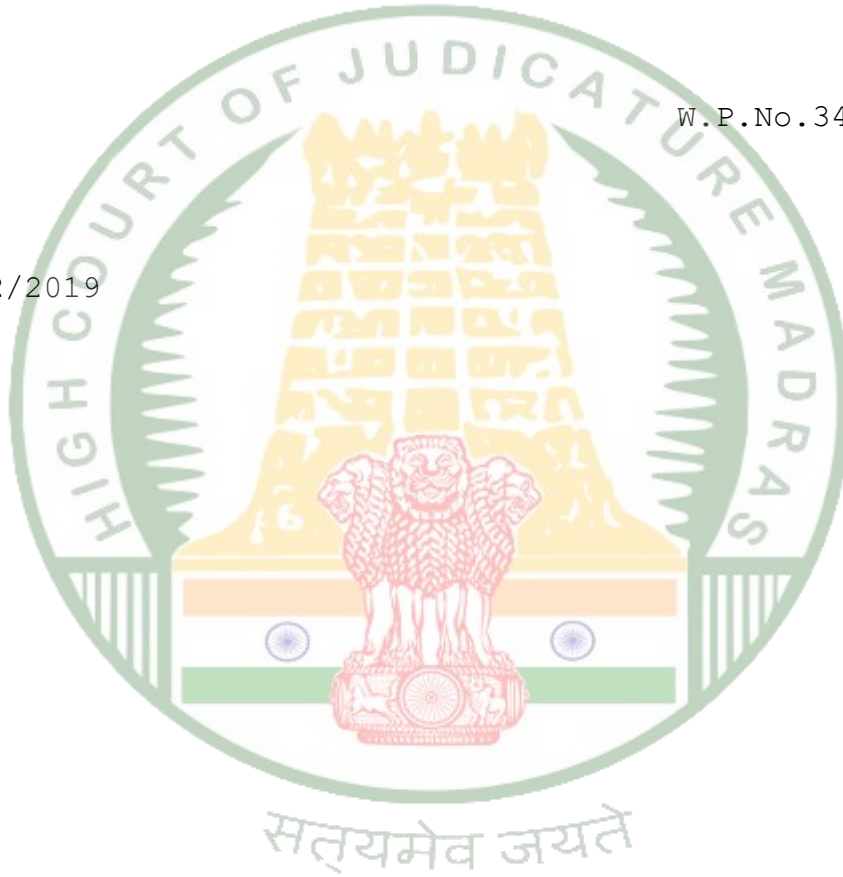
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The Manager,
Tamilnadu state Transport corporation,
Mayiladuthurai Branch Nagapattinam Zone,
Nagapattinam District.

+lcc to Mr.S.Giritharan, Advocate Sr.1113
+lcc to Mr.P.Kannankumar, Advocate Sr.1339

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ak[co]
srg 07/02/2019



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