



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Rev.Apl.W(MD)No.35 of 2019

and

W.M.P. (MD)No.6333 of 2019

WEB COPY

1.The Managing Director,
Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Byepass Road,
Madurai.

2.The General Manager,
Tamil Nadu State Transport
Corporation (Madurai) Ltd.,
Dindigul Region,
Dindigul - 4.

... Petitioners

Vs

1.S.Moorthy

2.The Administrator,
Tamil Nadu State Transport
Corporation Employees
Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai - 2.

... Respondents

Prayer: Review Application is filed under Order XLVII, Rules 1 and 2 r/w Section 114 of the Civil Procedure Code to review the order passed in W.P.(MD)No.4140 of 2018, dated 04.06.2018, on the file of this Court.

Prayer in WP(MD) . 4140/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court 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 Judgement of this Honourable Court in WA.No.855 & 856 of 2017 dated 04.07.2017.

For Petitioners	: Mr.Senthil Kumaraiah
For Respondents	: Mr.S.Govindan for R1

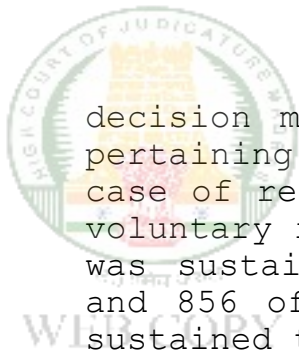


O R D E R

The first respondent herein namely., Moorthy was employed as a driver in Tamil Nadu State Transport Corporation (Madurai) Limited. He developed some serious spinal issues and wanted to be discharged from service on medical grounds. His request was not accepted. Therefore, he remained absent for almost three years. Finally on 11.03.2014, he submitted his resignation and it was accepted and his account was duly settled. Thereafter, he filed W.P.(MD)No.4140 of 2018 for directing the management to sanction pension to him. This Court by order dated 04.06.2018 allowed the writ petition by holding that the writ petitioner shall be considered to have voluntarily retired on 05.07.2014 and that his letter of resignation shall be treated as a request for going on voluntary retirement. Aggrieved by this order, this review application has been filed.

2.The learned standing counsel appearing for the Management placed reliance on the order dated 24.03.2016 in W.A.(MD)No.454 of 2016 and contended that even if the letter of resignation is on health ground, it should be treated only as resignation and not as anything else. He drew my attention to paragraph 8 of the said order. He also pointed out that the writ petitioner joined service only in 1999 and he was regularised in the year 2000. He remained unauthorizedly absent for three years preceding his resignation. In other words the writ petitioner did not report for duty from 2011 onwards.

3.I am not able to fully concur with the submissions of the learned standing counsel appearing for the Management. As rightly pointed by the learned counsel appearing for the first respondent/writ petitioner, it is true that the letter of resignation also mentions his domestic situation as one of the reasons for quitting. But then, this letter of resignation should not be viewed in isolation. It is beyond dispute that the writ petitioner had earlier requested to be discharged on medical grounds. His case was referred to medical board. Medical board opined that he was suffering from back pain due to Annular Bulge at L4-5. But even then Management declined to grant him permission to be discharged on medical grounds. It is admitted that the writ petitioner was not reporting for duty for almost three years prior to his resignation. This again confirms his stand that he was really not in a position to attend his duty. Finally left with no other option, the writ petitioner gave a letter of resignation with the hope that he would atleast get some terminal benefits. This Court therefore comes to the conclusion that the writ petitioner submitted the letter of resignation more out of depression and not for any other reason. It is not necessary that a letter of resignation should be treated only as such in all circumstances. The learned counsel for the writ petitioner placed reliance on the



decision made in W.P.(MD)Nos.461 and 106 of 2013. It was a case pertaining to transport corporation. It was held therein that the case of resignation on health grounds can be construed as an act of voluntary retirement. The said decision of the learned Single Judge was sustained by the Honourable Division Bench in W.A.(MD)Nos.855 and 856 of 2017. It is stated that the Honourable Supreme Court sustained the same.

4.The learned counsel appearing for the respondent drew my attention to a recent order of the Honourable Division Bench dated 26.06.2019 in W.A.(MD)No.1658 of 2018 on the same lines. Therefore, I am of the view that the decision of this Court in treating the letter of resignation as a request for voluntary retirement does not suffer from any error apparent on the face of the record. But then, as rightly contended by the learned standing counsel, the writ petitioner having rendered actual service for only 11 years, cannot claim that he should be deemed to have voluntary retirement only on 05.07.2014. But even then, the writ petitioner/ first respondent herein cannot be denied his minimum pension. It is admitted on both sides that a person, who has rendered 10 years of service is entitled to pension. In this case, the respondent has put in 11 years of service that is from 2000 to 2011. Therefore, the order dated 04.06.2018 in W.P.(MD)No.4140 of 2018 is modified to a limited extent. The writ petitioner will be entitled to only minimum pension by taking his period of service as 11 years. With this modification, the review application is partly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

Ias

+1 CC to Mr.J.SENTHIL KUMARIAH, Advocate (SR-82694[F] dated 21/08/2019)

+1.CC. To Mr.S.Govindan, Advocate in SR No.82222

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IN

WP(MD)No.4140 OF 2018

19.08.2019

(1/2)

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