



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.[MD]No.1037 of 2019

R.Aundichamy : Appellant/Petitioner
Vs.

- 1.The Management of
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Dindigul Region,
Rep. by its General Manager,
Dindigul.
- 2.The Administrator,
Tamil Nadu State Transport Employees Pension Fund Trust,
Thiruvalluvar Illam,
Anna Salai,
Chennai -2. : Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order of the learned Single Judge dated 26.02.2019 in W.P.[MD]No.5657 of 2018 and consequently to allow the writ petition as prayed for.

Prayer in WP(MD). 5657/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 1st respondent to pay the petitioner all his terminal benefits namely Gratuity, Encashment of Leave and etc., together with 18% interest per annum, along with interest amount towards the delay periods from 30/04/16 to 05/12/17 and from 30/04/16 to 03/01/18 in paying the EPF Employees Contribution amount in parts as Rs.1,52,000/ and Rs.89, 401/- respectively, at the same rate and further directing the respondents to pay him correct and full pension along with arrears of same from the month of May, 2016, and also pension payable to him for the month of May 2016 to August 2016, under TNSTC Pension Fund Rules, Together with 18% per annum within a timeframe.



For Appellant : Mr.S.Arunachalam
For Respondents : Mr.J.Senthil Kumariah

JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

By consent of both parties, this Writ Appeal is taken up for final disposal at the admission stage itself.

2.Heard Mr.S.Arunachalam, learned Counsel appearing for the appellant and Mr.J.Senthil Kumariah, learned Counsel appearing for the respondents.

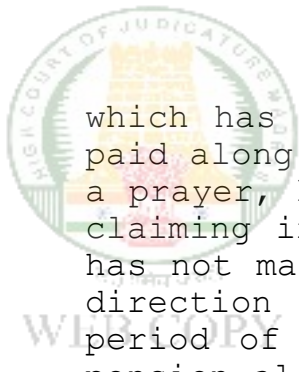
3.This appeal is directed against the order in W.P.[MD]No.5657 of 2018. The petitioner filed the writ petition for a direction upon the respondents to settle the terminal and pensionary benefits. The petitioner earlier filed a writ petition in W.P.[MD]No.17123 of 2015, challenging the order of recovery of a sum of Rs.88,450/- on the ground that it has been paid in excess to the appellant.

4.During the pendency of the said writ petition, the appellant attained the age of superannuation. Since the terminal benefits including gratuity was not paid and only provisional pension was fixed, the petitioner filed the present writ petition and agreed before the learned Single Judge that a sum of Rs.88,450/- may be retained. Learned Single Bench has recorded the concession not in the terms as set out by the appellant but as if he agreed for deduction of Rs.88,450/-. Learned Counsel for the appellant submitted that the concession given by the appellant is that without prejudice to the outcome of W.P.[MD]No.17123 of 2015, the amount may be retained and the balance amount may be released.

5.We find that this submission has not been correctly noted and the order passed in the writ petition reads as if the appellant agreed for the deduction in its entirety. Since, factually it is not so, we are inclined to issue appropriate directions in this appeal, so that the interest of the appellant is protected and the interest of the respondent Corporation is also safeguarded.

6.In the result, the Writ Appeal is allowed and the order passed in the writ petition is set aside. Consequently, the writ petition is disposed of with a direction to the respondent Corporation to retain a sum of Rs.88,450/- from and out of the gratuity amount payable to the appellant, release the remaining amount of gratuity and pay pension to the appellant.

7.Learned Counsel for the appellant submitted that the amount



which has been directed to be released before this Court should be paid along with interest. At this juncture, we do not accede to such a prayer, but, we give liberty to the appellant to argue this point claiming interest in W.P.[MD]No.17123 of 2015, though the appellant has not made a specific prayer in the said writ petition. The above direction be complied with by the respondent Corporation within a period of eight [8] weeks. Needless to state that the arrears of pension also to be disbursed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS III)

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Sub Assistant Registrar(CS)

MR

To

- 1.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Dindigul Region,
Dindigul.
- 2.The Administrator,
Tamil Nadu State Transport Employees Pension Fund Trust,
Thiruvalluvar Illam,
Anna Salai,
Chennai -2.

+1 cc Mr.J.SENTHIL KUMARAI AH ,Advocate, SR.No. 93005

+1 cc Mr. S.ARUNACHALAM ,Advocate, SR.No. 92443

W.A.[MD]No.1037 of 2019

Dated: 16.10.2019

KK/SAR/20.11.2019/3P-5C/