



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD) No.23406 of 2019

and

W.M.P.(MD)No.20054 of 2019

WEB COPY

K.Suresh Kumar

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Transport Department and Chairman
of Board of Directors of State Transport Undertakings,
Fort St. George, Chennai-600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
No.19, Trivandrum Road, Vannarpettai Post,
Tirunelveli.

3.The General Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Nagercoil Region, Ranithottam, Ranithottam Post,
Kanyakumari District.

4.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam, Pallavan Salai,
Chennai-600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records on the files of the third respondent pertaining to its order bearing No.4375/Legal-3/Olungu/Tha.Na.A.Po.Ka./2007, dated 18.09.2008, and to quash the same and consequently, direct the respondents to settle the retirement benefits payable to the petitioner, including service gratuity, commutation amount, leave salary, dearness allowance arrears, pension, revised pension for the service rendered by the petitioner from 18.08.1992 to 20.08.2007 within the stipulated time that may be fixed by this Court.

For Petitioner	: Mr.S.Sivakumar
For R1	: Mr.C.Ramar,
	Additional Government Pleader.
For R2 to R4	: Mr.K.Sathiyasingh

**ORDER**

The order of the third respondent dated 18.09.2008 is sought to be quashed in the Writ Petition and further direction is sought for to direct the respondents to settle the retirement benefits payable to the petitioner, including service gratuity, commutation amount, leave salary, dearness allowance arrears, pension, revised pension for the service rendered by the petitioner from 18.08.1992 to 20.08.2007.

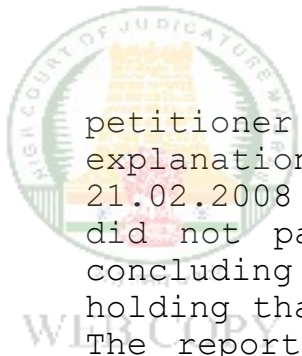
2.Mr.C.Ramar, learned Additional Government Pleader takes notice on behalf of the first respondent and Mr.K.Sathyasingh, learned counsel takes notice on behalf of the respondents 2 to 4.

3.According to the petitioner, he was appointed as Assistant Trade Man on 18.08.1992 in the respondent Corporation. Due to untoward incidents happened in his life and he underwent continuous treatment for jaundice, he could not attend the work from 21.08.2007. Subsequently, after recovering from his family problem and illness, he has approached the third respondent for reinstating him into service. However, the third respondent has refused to reinstate him into service. When the petitioner has requested the third respondent to sanction the retirement benefits, the third respondent has informed the petitioner that if he surrendered his identity card, retirement benefits will be sanctioned. Accordingly, the petitioner has surrendered his identity card issued by the third respondent. Even thereafter, the third respondent did not sanction the retirement benefits. His date of retirement is due on 30.06.2020. Subsequently, the petitioner was informed by the third respondent that he was terminated from service. However, no termination order was served on the petitioner. He has obtained a copy of the order of termination under Right to Information Act. Challenging the same, the petitioner has filed this Writ Petition.

4.The learned counsel appearing for the petitioner submitted that the petitioner did not receive any charge memo and notice for enquiry either from enquiry officer or from the third respondent and the enquiry, which has been conducted in the absence of the petitioner, is contrary to the principles of natural justice. Based on the report submitted by the enquiry officer, the petitioner was dismissed from service and prayed for allowing the Writ Petition.

5.Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the first respondent, the learned counsel appearing for the respondents 2 to 4 and perused the materials available on record carefully.

6.From the materials on record, it is seen that the petitioner has not attended the work from 21.08.2007. From the impugned order, it is seen that the charge memo was issued to the



petitioner on 04.09.2007. The petitioner did not submit any explanation. Notices of hearing dated 26.11.2007, 31.12.2007 and 21.02.2008 were issued to the petitioner, for enquiry. However, he did not participate in the enquiry. The enquiry officer, after concluding the enquiry, has submitted his report on 26.04.2008, holding that the charges levelled against the petitioner are proved. The report of the enquiry officer was sent to the petitioner and also second show cause notice was issued to the petitioner on 17.06.2008, by registered post with acknowledgment card. The petitioner has received the said notice on 26.06.2008 and has not submitted any explanation.

7.From the above materials, it is seen that the petitioner was given ample opportunity to participate in the domestic enquiry, however, he failed to avail the same and he did not participate in the enquiry. It is submitted by the learned counsel appearing for the petitioner that the petitioner did not attend duty from 21.08.2007 and subsequently, approached the third respondent and sought permission to join duty. However, the petitioner has not produced any materials to show that he reported for duty, but the third respondent has refused to permit him to join duty. The impugned order is of the year 2008 and the petitioner has approached this Court only in the year 2019. Further, the petitioner is a workman as defined under the Industrial Disputes Act, but he has not approached the Labour Court in time, seeking for his remedies.

8.For the above reasons, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Secretary to Government,
State of Tamil Nadu,
Transport Department and Chairman
of Board of Directors of State Transport Undertakings,
Fort St. George, Chennai-600 009.



2.The Managing Director,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
No.19, Trivandrum Road, Vannarpettai Post,
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3.The General Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Nagercoil Region, Ranithottam, Ranithottam Post,
Kanyakumari District.

+1 CC to Mr.S.SIVAKUMAR, Advocate (SR-96369[F] dated 06/11/2019)

+1 CC to M/s.SPL GP (SR-96691[F] dated 07/11/2019)

W.P. (MD) No.23406 of 2019
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