



WEB COPY

W.A(MD)No.1452 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2019

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THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A(MD)No.1452 of 2019

and

C.M.P(MD)No.11737 of 2019

against

WP(MD)No.21617 of 2017

The Management,
through the
General Manager,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
(A Government of Tamil Nadu Undertaking),
No.19, Tiruvandram Road,
Vannarapettai Post,
Tirunelveli - 627 003.

... Appellant/
3rd Respondent

Vs.

1.K.Rangaswami

... 1st Respondent/
Writ Petitioner

2.The Government of Tamil Nadu,
represented by its
Secretary to Government,
Transport Department,
Fort St. George,
Chennai - 9.

3.The Accountant General,
Pension 29 Section,
D.M.S. Nandanam,
Chennai - 600 018.

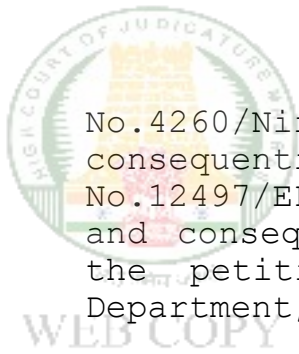
... Respondents 2 & 3/
Respondents 1 & 2

Prayer : Appeal filed under Clause 15 of the Letters Patent against
the order passed in W.P(MD)No.21617 of 2017, dated 15.03.2019.

Prayer in WP(MD). 21617/ 2017 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a writ of
Certiorarified Mandamus calling for the records pursuant to the
impugned order passed by the 3rd Respondent in his Letter

<https://hcservices.courts.gov.in/hcservices/>



No.4260/Nir.9/Tha.A.Po.Ka/Thili/2006 dated 18.07.2017 and the consequential impugned order passed by the 1st Respondent in Letter No.12497/EPa.1/2013-12, dated 20.07.2017, quash the same as illegal and consequently directing the Respondents to sanction pension to the petitioner w.e.f 17.04.1982 as per G.O.Ms.No.42 Transport Department, dated 27.05.2005 and to pay all arrears with interest.

For Appellant : Mr.K.Sathiya Singh

For Respondents : Mr.B.Christopher for R.1

Mr.VR.Shanmuganathan
Special Government Pleader
for R.2

JUDGMENT

[Judgment of the Court was delivered by **M.DURAISWAMY, J.**]

Challenging the order dated 15.03.2019 passed in W.P(MD) No.21617 of 2017, the Management has filed the above writ appeal.

2. The first respondent/writ petitioner filed the writ petition in W.P(MD)No.21617 of 2017, to issue a writ of Certiorarified Mandamus to call for the records pursuant to the impugned order passed by the appellant/third respondent in his Letter No.4260/Nir.9/Tha.A.Po.Ka/Thili/2006, dated 18.07.2017 and consequential impugned order passed by the second respondent/first respondent in Letter No.12497/EPa.1/2013-12, dated 20.07.2017 and quash the same as illegal and consequently, to direct the respondents therein to sanction pension to the first respondent/writ petitioner with effect from 17.04.1982 as per G.O.Ms.No.42, Transport Department, dated 27.05.2005 and to pay all arrears with interest.

3. It is the case of the first respondent/writ petitioner that he was appointed as a Conductor on 24.08.1965 and he was subsequently regularised by the appellant Transport Corporation. While so, he was dismissed from service on 17.04.1982 and as against the order of dismissal, he raised an Industrial Dispute before the Deputy Commissioner of Labour and a settlement under Section 12(3) of the Industrial Disputes Act, 1947, was reached between the parties on 07.10.1982. In spite of the said settlement, no benefits have been given to the first respondent/writ petitioner and the he has not been reinstated into service. In this regard, the first respondent/writ petitioner has given representations, however, without considering the plea raised by the first respondent/writ petitioner, the impugned orders have been passed and thereby, the benefits sought for by the first respondent/writ petitioner were denied. Challenging the same, the first respondent/writ petitioner has filed the writ petition.



4. In similar circumstances, this Court, by order dated 06.12.2007 in W.P(MD)No.8760 of 2007, disposed of the writ petition with the following directions:

"6. In view of the above, the impugned order is set aside and the second respondent is directed to pass fresh orders taking note of 18(1) Settlement dated 31.03.1981 reinstating the petitioner in service with continuity of service without backwages during the period of termination as well as the provision contained in G.O.Ms.No.42 Transport Department, dated 27.05.2005 within six weeks from the date of receipt of a copy of this order."

5. The first respondent/writ petitioner also filed a writ petition in W.P(MD)No.11412 of 2013 and this Court, by order dated 28.02.2017, disposed of the writ petition with the following directions:

"9. In the result, the Writ Petition is disposed of with the following directions:

(i) The impugned order dated 27.08.2012 is quashed.

(ii) The matter is remanded back to the third respondent for reconsideration in the light of the settlement between the parties as well as the judgment of this Court made in W.P.No.8760 of 2007 and also on the basis of G.O.Ms.No.42 Transport Department, dated 27.05.2005.

(iii) For the said consideration necessary proposal have to be forwarded by the Depot Manager or any other in charge, after getting copy of the same from the petitioner within a period of two weeks from the date of receipt of a copy of this order.

(iv) In the light of the above direction, after considering the proposal the third respondent in turn forward the same to first respondent. The first respondent who in turn on receipt of proposal from the third respondent shall pass appropriate orders extending the pensionary benefits to the petitioner payable to him within a period of six weeks therefrom."

6. When the writ petition came up for hearing, the learned Special Government Pleader and the Standing Counsel for the appellant Corporation had no serious objection for granting the prayer granted in W.P(MD)No.11412 of 2013. Recording the same, this Court passed the following order:



"7. In the light of the decision cited supra which is squarely applicable to the facts of the present case, and also considering the submissions made by the learned Counsel on either side, this Court passes the following order:-

(i) The impugned orders, dated 18.07.2017 and 20.07.2017 are quashed.

(ii) The matter is remanded back to the second respondent for reconsideration in the light of the settlement entered into between the parties as well as the judgment of this Court made in W.P.No.8760 of 2007 and also on the basis of G.O.Ms.No.42 Transport Department, dated 27.05.2005.

(iii) For the said re-consideration necessary proposals have to be forwarded by the Depot Manager or any other in charge, after getting copy of the same from the petitioner within a period of two weeks from the date of receipt of a copy of this order.

(iv) In the light of the above direction, after considering the proposal the second respondent shall forward the same to first respondent who in turn shall pass appropriate orders extending the pensionary benefits to the petitioner payable to him within a period of six weeks therefrom."

7. Since the order passed by the learned Single Judge is a consented order, no appeal can be filed as against the same. The learned Counsel for the appellant consented for passing the very same order passed in W.P(MD)No.11412 of 2013. That apart, the order passed by the learned Single Judge following the earlier order is just and proper and we do not find any irregularity in the order passed by the learned Single Judge.

8. In these circumstances, this writ appeal is devoid of merit and the same is dismissed. No costs. Consequently, the connected civil miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

rsb

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To

1.The Secretary to Government,
Government of Tamil Nadu,
Transport Department,
Fort St. George,
Chennai - 9.

2.The Accountant General,
Pension 29 Section,
D.M.S. Nandanam,
Chennai - 600 018.

+1 CC to Mr.B.CHRISTOPHER, Advocate (SR-104150[F] dated
10/12/2019)

+1 CC to Mr.K.SATHYASINGH, Advocate (SR-104478[F] dated
11/12/2019)

W.A(MD)No.1452 of 2019

and

C.M.P(MD)No.11737 of 2019

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